

NORTH CAROLINA REGISTER

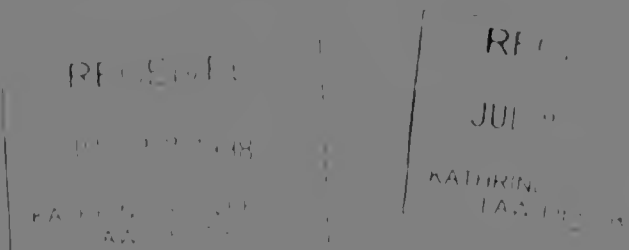
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Public Education
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Pesticides
Secretary of State
Substance Abuse Professionals Certification Board
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Rule Review Commission
Contested Case Decisions

PUBLISHED BY

*The Office of Administrative Hearings
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Raleigh, NC 27611-7447
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For those persons that have questions or concerns regarding the Administrative Procedure Act or any of its components, consult with the agencies below. The bolded headings are typical issues which the given agency can address, but are not inclusive.

Rule Notices, Filings, Register, Deadlines, Copies of Proposed Rules, etc.

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116 West Jones Street
Raleigh, North Carolina 27603-8005
(919) 733-7061
(919) 733-0640 FAX
contact: Mark Sisak, Economist III msisak@osbm.state.nc.us
Anna Lett, Economist II alett@osbm.state.nc.us

Rule Review and Legal Issues

Rules Review Commission
1307 Glenwood Ave., Suite 159
Raleigh, North Carolina 27605
(919) 733-2721
(919) 733-9415 FAX
contact: Joe DeLuca Jr., Staff Director Counsel
Bobby Bryan, Staff Attorney

Legislative Process Concerning Rule Making

Joint Legislative Administrative Procedure Oversight Committee
545 Legislative Office Building
300 North Salisbury Street
Raleigh, North Carolina 27611
(919) 733-2578
(919) 715-5460 FAX
contact: Mary Shaping, Staff Liaison marys@ms.ncga.state.nc.us

County and Municipality Government Questions or Notification

NC Association of County Commissioners
215 North Dawson Street
Raleigh, North Carolina 27603
(919) 715-2893
contact: Jim Blackburn or Rebecca Troutman
NC League of Municipalities
215 North Dawson Street
Raleigh, North Carolina 27603
(919) 715-4000
contact: Paula Thomas

NORTH CAROLINA REGISTER

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through June 10, 1998.

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Publication Schedule

(June 1998 - March 1999)

FILING DEADLINES			NOTICE OF RULE-MAKING PROCEEDINGS		NOTICE OF TEXT (either column A or column B)						TEMPORARY RULE	
volume and issue number	issue date	last day for filing	earliest register issue for publication of text	earliest date for public hearing	A. non-substantial economic impact			B. substantial economic impact			270 th day from issue date	
					end of required comment period	deadline to submit to RRC for review at next RRC meeting	first legislative day of the next regular session	end of required comment period	deadline to submit to RRC for review at next RRC meeting	first legislative day of the next regular session		
12:23	06/01/98	05/08/98	08/03/98	06/16/98	07/01/98	07/20/98	01/27/99	07/31/98	08/20/98	01/27/99	02/26/99	
12:24	06/15/98	05/22/98	08/14/98	06/30/98	07/15/98	07/20/98	01/27/99	08/14/98	08/20/98	01/27/99	03/12/99	
13:01	07/01/98	06/10/98	09/01/98	07/16/98	07/31/98	08/20/98	01/27/99	08/31/98	09/21/98	01/27/99	03/28/99	
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13:18	03/15/99	02/22/99	05/14/99	03/30/99	04/14/99	04/20/99	05/00	05/14/99	05/20/99	05/00	12/10/99	

EXPLANATION OF THE PUBLICATION SCHEDULE

This Publication Schedule is prepared by the Office of Administrative Hearings as a public service and the computation of time periods are not to be deemed binding or controlling. Time is computed according to 26 NCAC 2C .0302 and the Rules of Civil Procedure, Rule 6.

GENERAL	FILING DEADLINES	NOTICE OF RULE-MAKING PROCEEDINGS	NOTICE OF TEXT
<p>The North Carolina Register shall be published twice a month and contains the following information submitted for publication by a state agency:</p>	<p>ISSUE DATE: The Register is published on the first and fifteen of each month if the first or fifteenth of the month is not a Saturday, Sunday, or State holiday for employees mandated by the State Personnel Commission. If the first or fifteenth of any month is a Saturday, Sunday, or a holiday for State employees, the North Carolina Register issue for that day will be published on the day of that month closest to (either before or after) the first or fifteenth respectively that is not a Saturday, Sunday, or holiday for State employees.</p>	<p>END OF COMMENT PERIOD TO A NOTICE OF RULE-MAKING PROCEEDINGS: This date is 60 days from the issue date. An agency shall accept comments on the notice of rule-making proceedings until the text of the proposed rules is published, and the text of the proposed rule shall not be published until at least 60 days after the notice of rule-making proceedings was published.</p>	<p>EARLIEST DATE FOR PUBLIC HEARING: The hearing date shall be at least 15 days after the date a notice of the hearing is published.</p>
<p>(1) temporary rules;</p> <p>(2) notices of rule-making proceedings;</p>			<p>END OF REQUIRED COMMENT PERIOD</p> <p>(1) RULE WITH NON-SUBSTANTIAL ECONOMIC IMPACT: An agency shall accept comments on the text of a proposed rule for at least 30 days after the text is published or until the date of any public hearings held on the proposed rule, whichever is longer.</p> <p>(2) RULE WITH SUBSTANTIAL ECONOMIC IMPACT: An agency shall accept comments on the text of a proposed rule published in the Register and that has a substantial economic impact requiring a fiscal note under G.S. 150B-21.4(b1) for at least 60 days after publication or until the date of any public hearing held on the rule, whichever is longer.</p>
<p>(3) text of proposed rules;</p> <p>(4) text of permanent rules approved by the Rules Review Commission;</p> <p>(5) notices of receipt of a petition for municipal incorporation, as required by G.S. 120-165;</p> <p>(6) Executive Orders of the Governor;</p> <p>(7) final decision letters from the U.S. Attorney General concerning changes in laws affecting voting in a jurisdiction subject of Section 5 of the Voting Rights Act of 1965, as required by G.S. 120-30.911;</p>	<p>LAST DAY FOR FILING: The last day for filing for any issue is 15 days before the issue date excluding Saturdays, Sundays, and holidays for State employees.</p>	<p>EARLIEST REGISTER ISSUE FOR PUBLICATION OF TEXT: The date of the next issue following the end of the comment period.</p>	<p>DEADLINE TO SUBMIT TO THE RULES REVIEW COMMISSION: The Commission shall review a rule submitted to it on or before the twentieth of a month by the last day of the next month.</p>
<p>(8) orders of the Tax Review Board issued under G.S. 105-241.2; and</p> <p>(9) other information the Codifier of Rules determines to be helpful to the public.</p>	<p>COMPUTING TIME: In computing time in the schedule, the day of publication of the North Carolina Register is not included. The last day of the period so computed is included, unless it is a Saturday, Sunday, or State holiday, in which event the period runs until the preceding day which is not a Saturday, Sunday, or State holiday.</p>		<p>FIRST LEGISLATIVE DAY OF THE NEXT REGULAR SESSION OF THE GENERAL ASSEMBLY: This date is the first legislative day of the next regular session of the General Assembly following approval of the rule by the Rules Review Commission. See G.S. 150B-21.3, Effective date of rules.</p>

**EXECUTIVE ORDER NO. 136
GOVERNOR'S ADVISORY COUNCIL
ON HISPANIC/LATINO AFFAIRS**

WHEREAS, the Hispanic/Latino community plays a vital role in the economy of North Carolina; and

WHEREAS, North Carolina has experienced a tremendous increase of Hispanic/Latino residents into the state; and

WHEREAS, the Hispanic/Latino community is contributing to the economic development and progress of the state by working in different sectors of the labor market and by participating in civic affairs; and

WHEREAS, many unique challenges confront the Hispanic/Latino community as they attempt to access housing, health care, and employment services; and

WHEREAS, the state should promote and encourage collaboration and collaborative planning and delivery of services among state agencies that serve the Hispanic/Latino community.

NOW, THEREFORE, by the power vested in me as Governor by the laws and Constitution of North Carolina, IT IS ORDERED:

Section 1. Establishment

The Governor's Advisory Council on Hispanic/Latino Affairs is hereby established. It shall be composed of fifteen voting members who shall serve at the pleasure of the Governor. In addition to the fifteen appointed members, the following c their designees shall serve as ex-officio, non-voting members:

- a. The Secretary of the Department of Administration;
- b. The Secretary of the Department of Health and Human Services;
- c. The Secretary of the Department of Crime Control and Public Safety;
- d. The Governor's Senior Advisor on Community Affairs;
- e. The Commissioner of the Division of Motor Vehicles; and
- f. The Chairman of the Employment Security Commission.

The following individuals, or their designees, are invited to serve as ex-officio, non-voting members of the Advisory Council:

- g. The Commissioner of the North Carolina Department of Agriculture and Consumer Services;
- h. The Commissioner of Labor;
- i. The Superintendent of Public Instruction; and
- j. The Honorary Consul of Mexico.

The Governor shall appoint a Chair from among the Advisory Council's voting members.

Section 2. Meetings

The Advisory Council shall meet quarterly or at the call of the Chair. The Chair shall set the agenda for the Advisory Council meetings. The Advisory Council may establish such committees or other working groups as are necessary to assist

in performing its duties.

Section 3. Duties

The Advisory Council shall have the following duties:

- a. Advise the Governor on issues relating to the Hispanic/Latino community in North Carolina;
- b. Support state efforts toward the improvement of race and ethnic relations;
- c. Provide a forum for the discussion of issues concerning the Hispanic/Latino community in North Carolina;
- d. Promote cooperation and understanding between the Hispanic/Latino community, the general public, the state, federal and local governments; and
- e. Perform other duties as directed by the Governor.

Section 4. Administration

Support staff for the Advisory Council shall be provided by the Governor's Office and other Cabinet departments as directed by the Governor. Members shall serve without compensation, but may receive reimbursements, contingent upon the availability of funds, for travel and subsistence in accordance with North Carolina General Statutes §§ 138-5, 138-6, and 120-3.1.

This Executive Order is effective immediately.

Done in the Capital City of Raleigh, North Carolina, the 5th day of June, 1998.

A Notice of Rule-making Proceedings is a statement of subject matter of the agency's proposed rule making. The agency must publish a notice of the subject matter for public comment at least 60 days prior to publishing the proposed text of a rule. Publication of a temporary rule serves as a Notice of Rule-making Proceedings and can be found in the Register under the section heading of Temporary Rules. A Rule-making Agenda published by an agency serves as Rule-making Proceedings and can be found in the Register under the section heading of Rule-making Agendas. Statutory reference: G.S. 150B-21.2.

TITLE 11 - DEPARTMENT OF INSURANCE

**CHAPTER 8 - ENGINEERING AND
BUILDING CODES DIVISION**

Notice of Rule-making Proceedings is hereby given by the North Carolina Manufactured Housing Board Department of Insurance in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rule(s) it proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

Citation to Existing Rules Affected by this Rule-Making:
11 NCAC 8 .0900 - Other rules may be proposed in the course of the rule-making process.

Authority for the rule-making: G.S. 143-143-10(b)(4); 143-143.11(h)

Statement of the Subject Matter: Rules to establish requirements & procedure for administration of exam for applicants for manufactured housing set-up contractor licenses; rules which would put in age requirement for licensing; definitions of what constitutes "selling"; clarifies provision on unfair trade practice; revises rule which prohibits Board from taking licensing action because buyer has atty; changes in way Board's staff handles issuance & renewal of licenses.

Reason for Proposed Action: Rules need to be updated and clarified.

Comment Procedures: Written comments should be sent to Patrick Walker, c/o N.C. Department of Insurance, 401 N. Boylan Avenue, Raleigh, NC 27603, (919) 733-3901.

**CHAPTER 12 - LIFE AND HEALTH
DIVISION**

Notice of Rule-making Proceedings is hereby given by the Department of Insurance in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rule(s) it proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

Citation to Existing Rules Affected by this Rule-Making:
11 NCAC 12 .0800 - Other rules may be proposed in the

course of the rule-making process.

Authority for the rule-making: G.S. 58-54-15

Statement of the Subject Matter: Federal law requires that the state's regulatory program enforce the standards and requirements set forth in the NAIC Medicare Supplement Model Standards.

Reason for Proposed Action: P.L. 105-33 — Balanced Budget Act of 1997 (42 U.S.C. Section 1395 et seq.) Federal law requires state medicare supplement rules to adopt NAIC Medicare Supplement Insurance Minimum Standards Model Regulations. This rule making will keep these consistent.

Comment Procedures: Written comments should be sent to Theresa Shackelford, North Carolina Department of Insurance, Life & Health Division, P.O. Box 26387, Raleigh, NC 27601, (919) 733-5060.

**CHAPTER 12 - LIFE AND HEALTH
DIVISION**

Notice of Rule-making Proceedings is hereby given by the Department of Insurance in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rule(s) it proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

Citation to Existing Rules Affected by this Rule-Making:
11 NCAC 12 .1000 - Other rules may be proposed in the course of the rule-making process.

Authority for the rule-making: G.S. 58-55-30(a)

Statement of the Subject Matter: Long-Term Care Insurance -- contains standard definitions; disclosure statements; accelerated life rider standards; suitability standards and nonforfeiture option.

Reason for Proposed Action: These changes are needed to reflect NAIC changes in Long-Term Care Model Regulations — enables long-term care providers to be subject to similar rules in most states.

Comment Procedures: Written comments should be sent to Theresa Shackelford, North Carolina Department of Insurance, Life & Health Division, P.O. Box 26387, Raleigh,

NC 27601, (919) 733-5060.

**TITLE 15A - DEPARTMENT OF ENVIRONMENT
AND NATURAL RESOURCES**

**CHAPTER 10 - WILDLIFE RESOURCES
AND WATER SAFETY**

**SUBCHAPTER 10C - INLAND FISHING
REGULATIONS**

Notice of Rule-making Proceedings is hereby given by the North Carolina Wildlife Resources Commission in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rule(s) it proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

Citation to Existing Rules Affected by this Rule-Making: 15A NCAC 10C .0300, .0400 - Other rules may be proposed in the course of the rule-making process.

Authority for the rule-making: G.S. 113-134; 113-272.2; 113-273; 113-275; 113-276; 113-276.1; 113-292; 113-302; 113-304; 113-305

Statement of the Subject Matter: *Inland Fishing Regulations, Game Fish & Nongame Fish.*

Reason for Proposed Action: *To set/amend the rules for inland game fish and nongame fish which is necessary to manage and conserve the resource. The Wildlife Resources Commission may adopt this rule as a temporary rule pursuant to S.L. 1997-0403 following this abbreviated notice.*

Comment Procedures: *The record will be open for receipt of written comments from July 1, 1998 to September 1, 1998. Such written comments must be delivered or mailed to the North Carolina Wildlife Resources Commission, 512 N. Salisbury Street, Raleigh, NC 27604-1188.*

**TITLE 21 - OCCUPATIONAL LICENSING
BOARDS**

CHAPTER 46 - BOARD OF PHARMACY

Notice of Rule-making Proceedings is hereby given by the North Carolina Board of Pharmacy in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rule(s) it proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

Citation to Existing Rules Affected by this Rule-Making: 21 NCAC 46 .1317 and .1606 - Other rules may be proposed

in the course of the rule-making process.

Authority for the rule-making: G.S. 90-18.1; 90-18.2; 90-85.3; 90-85.6; 90-85.21; 90-85.22; 90-85.24

Statement of the Subject Matter: *Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Board of Pharmacy (Board) will consider adopting rules, repealing rules, or amending rules to define the meaning of the term "duplicate" as used in G.S. 90-85.24 and to change the personal appearance requirements for issuance of original permits, device and medical equipment permits, or prior to approval for dispensing.*

Reason for Proposed Action:

- To define term "duplicate" as used in G.S. 90-85.24.
- To change the personal appearance requirements for issuance of original permits, device and medical equipment permits, or prior to approval for dispensing by a nurse practitioner or physician's assistant.

Comment Procedures: *Written comments may be submitted on the subject matter of the proposed rule-making to David R. Work, Executive Director of the Board at the Board's office. The Board's address is PO Box 459, Carrboro, NC 27510-0459.*

**CHAPTER 57 - REAL ESTATE APPRAISAL
BOARD**

**SUBCHAPTER 57A - LICENSING,
CERTIFICATION AND PRACTICE**

Notice of Rule-making Proceedings is hereby given by the North Carolina Appraisal Board in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rule(s) it proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

Citation to Existing Rules Affected by this Rule-Making: 21 NCAC 57A .0101 - .0102, .0201 - .0203, .0205 - .0206, .0208, .0301 - .0306, .0401 - .0405, .0407, .0501 - Other rules may be proposed in the course of the rule-making process.

Authority for the rule-making: G.S. 93E-1-10

Statement of the Subject Matter: *Review of current rules indicates a need to implement rules regarding the addition of trainee status to those licensed by the Appraisal Board, and to come into compliance with changes in qualifications on the federal level for trainees and appraisers.*

Reason for Proposed Action: *G.S. 93E-1, the North Carolina Appraisers Act, was amended in 1995 to add the*

category of registered trainee to those licensed by the Appraisal Board, but the rules were not amended to reflect that change. There has been a change in the qualifications in the four categories of licensees and there is a need for the Board to come into compliance with the requirements of the Appraiser Qualifications Board of the Appraisal Foundation, in accordance with Title XI of the U.S. Code.

Comment Procedures: *Written comments should be directed to A. Melton Black, Jr., Executive Director, North Carolina Appraisal Board, PO Box 20500, Raleigh, NC 27619-0500.*

This Section contains the text of proposed rules. At least 60 days prior to the publication of text, the agency published a Notice of Rule-making Proceedings. The agency must accept comments on the proposed rule for at least 30 days from the publication date, or until the public hearing, or a later date if specified in the notice by the agency. The required comment period is 60 days for a rule that has a substantial economic impact of at least five million dollars (\$5,000,000). Statutory reference: G.S. 150B-21.2.

**TITLE 10 - DEPARTMENT OF HEALTH
AND HUMAN SERVICES**

Notice is hereby given in accordance with G.S. 150B-21.2 that the DHHS - Division of Medical Assistance intends to amend the rule(s) cited as 10 NCAC 26B .0103; 10 NCAC 26M .0201-.0203; and adopt the rule cited as 10 NCAC 26M .0204. Notice of Rule-making Proceedings was published in the Register on March 16, 1998 for 10 NCAC 26B .0103 and September 15, 1997 for 10 NCAC 26M .0201-0204.

Proposed Effective Date: April 1, 1999

A Public Hearing will be conducted at 1:30 p.m. on July 30, 1998 at the Kirby Building, 1985 Umstead Drive, Room 132, Raleigh, NC.

Reason for Proposed Action:

10 NCAC 26B .0103 - The term used in this rule is "certified" but not "Medicare certified." Since North Carolina does not have a separate Medicaid certification, the term "certified" refers to Medicare certification. As a technical amendment, Medicare is being inserted to read "Medicare certified."

10 NCAC 26M .0201-.0204 - These proposed changes will more clearly describe the Department's HMO risk contracting programs. Procedures for contracting with DMA and coverage issues, including recipient categories that are eligible for enrollment, geographic areas where programs may operate and services that are covered, are addressed in more detail.

Comment Procedures: Written comments concerning these rule-making actions must be submitted by August 14, 1998 to Portia W. Rochelle, Rule-making Coordinator, Division of Medical Assistance, 1985 Umstead Drive, Raleigh, NC 27603.

Fiscal Note: These Rules do not affect the expenditures or revenues of state or local government funds. These Rules do not have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period.

CHAPTER 26 - MEDICAL ASSISTANCE

**SUBCHAPTER 26B - MEDICAL ASSISTANCE
PROVIDED**

SECTION .0100 - GENERAL

.0103 HOME HEALTH SERVICES

Home health services are provided by Medicare certified

home health agencies under a plan of care authorized by the patient's physician.

Authority G.S. 108A-25(b); 108A-54.

**SUBCHAPTER 26M - MANAGED CARE AND
PREPAID PLANS**

SECTION .0200 - PREPAID PLANS

.0201 PROGRAM DEFINITION

~~Federally-qualified Health Maintenance Organizations (HMOs) and State licensed and certified HMOs are eligible to enter contracts with the Division of Medical Assistance for enrollment of Medicaid eligible individuals.~~

The Division of Medical Assistance (DMA) contracts with Federally qualified Health Maintenance Organizations (HMOs) and State licensed and certified HMOs to provide and coordinate medical services for certain Medicaid eligibles. Prior to DMA awarding a contract to an HMO, the HMO must submit an application in which it demonstrates its ability to meet all contract specifications. The counties or regions selected for program operation are determined by the Division of Medical Assistance.

Authority G.S. 108A-25(b).

.0202 ENROLLMENT

~~Each contract will define eligible enrollees and service areas, according to the provisions in 42 CFR 434, Subpart C, which is included by reference, including any subsequent amendments. Copies of the cited regulation can be obtained from the Superintendent of Documents, U. S. Government Printing Office, Washington, D. C. 20402 at a cost of twenty one dollars (\$21.00).~~

(a) Enrollment is voluntary in all service areas with the exception of Mecklenburg County. In Mecklenburg County, most categories of eligibles are mandated to enroll with an HMO.

(b) Each contract shall define eligibles and service areas, according to the provisions in 42 CFR 434, Subpart C, which is hereby incorporated by reference including subsequent amendments and editions. This material is available for inspection at the Department of Health and Human Services, Division of Medical Assistance, 1985 Umstead Drive, Raleigh, North Carolina. Copies of the cited regulation may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 at a cost of twenty-one dollars (\$21.00).

Authority G.S. 108A-25(b).

.0203 ACCESS TO CARE

HMO enrollees will receive recovered health care services that are provided by the HMO or its subcontractors. The Division of Medical Assistance has the authority to deny payment for covered services not provided nor authorized by the HMO.

(a) HMO members shall receive all in-plan health care services from their HMO or its subcontractors, except:

- (1) in the case of emergencies;
- (2) family planning supplies and services; and
- (3) diagnosis, treatment, and counseling for tuberculosis, sexually transmitted diseases and HIV.

In-plan and out-of plan services are listed in the risk contract between the HMO and DMA.

(b) HMO members may receive out-of-plan benefits from any provider who accepts fee-for-service Medicaid.

(c) The Division of Medical Assistance has the authority to deny payment for out-of-plan services that have not been provided according to Medicaid policy and procedures.

Authority G.S. 108A-25(b).

.0204 MEMBER COMPOSITION

(a) No more than 75 percent of an HMO's membership shall be Medicaid recipients or Medicare beneficiaries.

(b) The Division of Medical Assistance may grant a waiver to an HMO for up to three years, dependent upon the HMO's demonstration of good faith efforts to meet the 75/25 goal. Good faith efforts are marketing and other activities aimed at achieving an HMO membership which includes no more than 75 percent Medicaid recipients or Medicare beneficiaries.

(c) Guidelines for obtaining a waiver are as follows:

- (1) The request shall be made in writing to the Division of Medical Assistance at the beginning of each contract year.
- (2) The HMO shall report to the Division its progress toward attaining 25 percent commercial membership, if the Division grants the waiver.
- (3) The report shall be submitted in writing to the Division within the last 30 days of the contract year.
- (4) The HMO shall request a waiver for each of the remaining two contract years, if needed, during the last 30 days of the preceding contract year.

Authority G.S. 108A-25(b).

TITLE 12 - DEPARTMENT OF JUSTICE

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Criminal Justice Education and Training Standards Commission intends to amend the rule(s) cited as 12 NCAC 9A .0103; 9B .0101, .0210-.0215, .0218-.0222, .0301, .0309-.0311, 0404, .0408-.0409, .0414, .0416; 9C .0308. Notice of Rule-making Proceedings was published

in the Register on May 1, 1998.

Proposed Effective Date: *April 1, 1999*

A Public Hearing will be conducted at 9:00 a.m. on August 20, 1998 at the North Carolina Justice Academy, Western Campus, Edneyville, North Carolina.

Reason for Proposed Action: *The North Carolina Criminal Justice Education and Training Standards Commission has authorized rule-making authority to amend/adopt numerous administrative rules in order to better define the minimum employment and training standards that regulate the criminal justice officer profession in this State. Additionally, technological improvements in Speed Measuring Instruments (radar, TDS, laser) have resulted in a pressing need to amend the Commission's SMI rules.*

Comment Procedures: *Any person interested in this rule-making proceeding may present oral or written comments, relevant to the above-stated subject matter for a period of 60 days from this notice. Written comments should be directed to Scott Perry, Deputy Director, at the Criminal Justice Standards Division which is located in G-25, Old Education Building, 114 West Edmon Street, PO Drawer 149, Raleigh, North Carolina 27602.*

Fiscal Note: *These Rules do not affect the expenditures or revenues of state or local government funds. These Rules do not have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period.*

CHAPTER 9 - CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS

SUBCHAPTER 9A - CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION

SECTION .0100 - COMMISSION ORGANIZATION AND PROCEDURES

.0103 DEFINITIONS

The following definitions apply throughout this Chapter, except as modified in 12 NCAC 9A .0107 for the purpose of the Commission's rule-making and administrative hearing procedures:

- (1) "Agency" or "Criminal Justice Agency" means those state and local agencies identified in G.S. 17C-2(b).
- (2) "Alcohol Law Enforcement Agent" means a law enforcement officer appointed by the Secretary of Crime Control and Public Safety as authorized by G.S. 18B-500.
- (3) "Commission" means the North Carolina Criminal Justice Education and Training Standards Commission.
- (4) "Commission of an offense" means a finding by the

North Carolina Criminal Justice Education and Training Standards Commission or an administrative body that a person performed the acts necessary to satisfy the elements of a specified criminal offense.

- (5) "Convicted" or "Conviction" means and includes, for purposes of this Chapter, the entry of:
 - (a) a plea of guilty;
 - (b) a verdict or finding of guilt by a jury, judge, magistrate, or other duly constituted, established, and recognized adjudicating body, tribunal, or official, either civilian or military; or
 - (c) a plea of no contest, nolo contendere, or the equivalent.
- (6) "Correctional Officer" means any employee of the North Carolina Department of Correction who is responsible for the custody or treatment of inmates.
- (7) "Criminal Justice Officer(s)" means those officers identified in G.S. 17C-2(c) and further includes probation and parole intake officers; probation/parole officers-surveillance; probation/parole intensive officers; and, state parole case analysts.
- (8) "Criminal Justice System" means the whole of the State and local criminal justice agencies described in Item (1) of this Rule.
- (9) "Criminal Justice Training Points" means points earned toward the Criminal Justice Officers' Professional Certificate Program by successful completion of commission-approved criminal justice training courses. Twenty classroom hours of commission-approved criminal justice training equals one criminal justice training point.
- (10) "Department Head" means the chief administrator of any criminal justice agency and specifically includes any chief of police or agency director. "Department Head" also includes a designee formally appointed in writing by the Department head.
- (11) "Director" means the Director of the Criminal Justice Standards Division of the North Carolina Department of Justice.
- (12) "Educational Points" means points earned toward the Professional Certificate Programs for studies satisfactorily completed for semester hour or quarter hour credit at an accredited institution of higher education. Each semester hour of college credit equals one educational point and each quarter hour of college credit equals two-thirds of an educational point.
- (13) "Enrolled" means that an individual is currently actively participating in an on-going formal presentation of a commission-accredited basic training course which has not been concluded on the day probationary certification expires. The term "currently actively participating" as used in this definition means:

- (a) for law enforcement officers, that the officer is then attending an approved course presentation averaging a minimum of twelve hours of instruction each week; and
 - (b) for Youth Services and Department of Correction personnel, that the officer is then attending the last or final phase of the approved training course necessary for fully satisfying the total course completion requirements.
- (14) "High School" means a school accredited as a high school by:
 - (a) the Department or board of education of the state in which the school is located; or
 - (b) the recognized regional accrediting body; or
 - (c) the state university of the state in which the school is located.
 - (15) "In-Service Training" means any and all training prescribed in Subchapter 9E Rule .0102 which must be satisfactorily completed by all certified law enforcement officers during each full calendar year of certification.
 - (16) "Lateral Transfer" means the employment of a criminal justice officer, at any rank, by a criminal justice agency, based upon the officer's special qualifications or experience, without following the usual selection process established by the agency for basic officer positions.
 - (17) "Law Enforcement Code of Ethics" means that code adopted by the Commission on September 19, 1973, which reads:

As a law enforcement officer, my fundamental duty is to serve the community; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the constitutional rights of all to liberty, equality, and justice.

I will keep my private life unsullied as an example to all, and will behave in a manner that does not bring discredit to me or to my agency. I will maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed both in my personal and official life, I will be exemplary in obeying the law and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

I will never act officiously or permit personal feelings, prejudices, political beliefs, aspirations, animosities or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of the police service. I will never engage in

acts or corruption or bribery, nor will I condone such acts by other police officers. I will cooperate with all legally authorized agencies and their representatives in the pursuit of justice.

I know that I alone am responsible for my own standard of professional performance and will take every reasonable opportunity to enhance and improve my level of knowledge and competence.

I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession...law enforcement.

(18) "Law Enforcement Officer" means an appointee of a criminal justice agency or of the State or of any political subdivision of the State who, by virtue of his office, is empowered to make arrests for violations of the laws of this State. Specifically excluded from this title are sheriffs and their sworn appointees with arrest authority who are governed by the provisions of Chapter 17E of the General Statutes.

(19) "Law Enforcement Training Points" means points earned toward the Law Enforcement Officers' Professional Certificate Program by successful completion of commission-approved law enforcement training courses. Twenty classroom hours of commission-approved law enforcement training equals one law enforcement training point.

(20) "LIDAR" means a speed-measuring instrument that electronically computes, from transmitted infrared light pulses, the speed of a vehicle under observation.

(2021) "Local Confinement Personnel" means any officer, supervisor or administrator of a local confinement facility in North Carolina as defined in G.S. 153A-217; any officer, supervisor or administrator of a county confinement facility in North Carolina as defined in G.S. 153A-218; or, any officer, supervisor or administrator of a district confinement facility in North Carolina as defined in G.S. 153A-219.

(2422) "Misdemeanor" means those criminal offenses not classified under the laws, statutes, or ordinances as felonies. Misdemeanor offenses are classified by the Commission as follows:

(a) "Class A Misdemeanor" means an act committed or omitted in violation of any common law, duly enacted ordinance, criminal statute, or criminal traffic code of this state, or any other jurisdiction, either civil or military, for which the maximum punishment allowable for the designated offense under the laws, statutes, or ordinances of the jurisdiction in which the offense occurred includes imprisonment for a term of not more than six months. Specifically excluded from this grouping of "class A misdemeanor" criminal offenses are motor vehicle or traffic offenses designated

as misdemeanors under Chapter 20 (Motor Vehicles) of the General Statutes of North Carolina, similar laws of other jurisdictions, or duly enacted ordinances of an authorized governmental entity with the exception of the offense of impaired driving (G.S. 20-138.1) which is expressly included herein as a class A misdemeanor, if the defendant was sentenced under punishment level three [G.S. 20-179(l)], level four [G.S. 20-179(j)], or level five [G.S. 20-179(k)].

(b) "Class B Misdemeanor" means an act committed or omitted in violation of any common law, criminal statute, or criminal traffic code of this state, or any other jurisdiction, either civil or military, for which the maximum punishment allowable for the designated offense under the laws, statutes, or ordinances of the jurisdiction in which the offense occurred includes imprisonment for a term of more than six months but not more than two years. Specifically excluded from this grouping of "class B misdemeanor" criminal offenses are motor vehicles or traffic offenses designated as being misdemeanors under Chapter 20 (Motor Vehicles) of the General Statutes of North Carolina or similar laws of other jurisdictions with the following exceptions. Class B misdemeanor does expressly include, either first or subsequent offenses of G.S. 20-138(a) or (b), G.S. 20-139 (persons under influence of drugs), G.S. 20-28(b) (driving while license permanently revoked or permanently suspended), and G.S. 20-166 (duty to stop in event of accident). This definition further includes a violation of G.S. 20-138.1 (impaired driving) if the defendant was sentenced under punishment level one [G.S. 20-179(g)] or punishment level two [G.S. 20-179(h)] for the offense.

(2223) "Parole Case Analyst" means an employee of the North Carolina Department of Correction who works under the supervision of the North Carolina Parole Commission, whose duties include analyzing and processing cases under consideration for parole, preparing and presenting parole recommendations, analyzing and processing executive clemency matters and interviewing inmates.

(2324) "Pilot Courses" means those courses developed consistent with the curriculum development policy adopted by the Commission on May 30, 1986. This policy shall be administered by the Education and Training Committee of the Commission consistent with Rule 9C .0404.

(2425) "Probation Parole Officer" means an employee of the Division of Adult Probation and Parole whose

- duties include supervising, evaluating, treating, or instructing offenders placed on probation or parole or assigned to any other community-based program operated by the Division of Adult Probation and Parole.
- (2526) "Probation/Parole Intake Officer" means an employee of the Division of Adult Probation and Parole, other than a regular Probation/Parole officer, whose duties include conducting, preparing, or delivering investigations, reports, and recommendations, either before or after sentencing, upon the request or referral of the court, the Parole Commission, or the Director of the Division of Adult Probation and Parole.
- (2627) "Probation/Parole Intensive Officer" means an employee of the Division of Adult Probation and Parole other than a regular probation/parole officer, probation/parole intake officer, and probation/parole officer-surveillance who is duly sworn, empowered with the authority of arrest and is an authorized representative of the courts of North Carolina and the Department of Correction, Division of Adult Probation and Parole, whose duties include supervising, investigating, reporting, counseling, treating, and surveillance of serious offenders in an intensive probation and parole program operated by the Division of Adult Probation and Parole who serves as the lead officer in such a unit.
- (2728) "Probation/Parole Officer - Surveillance" means an employee of the Division of Adult Probation and Parole other than a regular probation/parole and a probation/parole intake officer who is duly sworn, empowered with the authority of arrest and is an authorized representative of the courts of North Carolina and the Department of Correction, Division of Adult Probation and Parole whose duties include supervising, investigating, reporting, and surveillance of serious offenders in an intensive probation and parole program operated by the Division of Adult Probation and Parole who is trained in community corrections and law enforcement techniques.
- (2829) "Radar" means a speed-measuring instrument that transmits microwave energy in the 10.500 to 10.550 MHZ frequency (X) band or transmits microwave energy in the 24.050 to 24.250 MHZ frequency (K) band and either of which operates in the stationary and/or moving mode. "Radar" further means a speed-measuring instrument that transmits microwave energy in the 33.400 to 36.000 MHZ (Ka) band and operates in either the stationary or moving mode.
- (2930) "Resident" means any youth committed to a facility operated by the North Carolina Division of Youth Services.
- (3031) "School" or "criminal justice school" means an institution, college, university, academy, or agency which offers criminal justice, law enforcement, penal, correctional, or traffic control and enforcement training for criminal justice officers or law enforcement officers. "School" includes the criminal justice training course curriculum, instructors, and facilities.
- (3132) "School Director" means the person designated by the sponsoring institution or agency to administer the criminal justice school.
- (3233) "Speed-Measuring Instruments" (SMI) means those devices or ~~systems~~ systems, including radar time-distance, and LIDAR, formally approved and recognized under authority of G.S. 17C-6(a)(13) for use in North Carolina in determining the speed of a vehicle under observation and particularly includes all named devices or systems as specifically ~~restricted~~ referenced in the approved list of 12 NCAC 9C .0601.
- (3334) "Standards Division" means the Criminal Justice Standards Division of the North Carolina Department of Justice.
- (3435) "Time-Distance" means a speed-measuring instrument that electronically computes, from measurements of time and distance, the average speed of a vehicle under observation.
- (3536) "State Youth Services Officer" means an employee of the North Carolina Division of Youth Services whose duties include the evaluation, treatment, instruction, or supervision of juveniles committed to that agency.

Authority G.S. 17C-2; 17C-6; 17C-10; 153A-217.

SUBCHAPTER 9B - STANDARDS FOR CRIMINAL JUSTICE EMPLOYMENT EDUCATION AND TRAINING

SECTION .0100 - MINIMUM STANDARDS FOR CRIMINAL JUSTICE EMPLOYMENT

.0101 MINIMUM STANDARDS FOR CRIMINAL JUSTICE OFFICERS

Every criminal justice officer employed by an agency in North Carolina shall:

- (1) be a citizen of the United States;
- (2) be at least 20 years of age;
- (3) be of good moral character pursuant to G.S. 17C-10 and as determined by a thorough background investigation;
- (4) have been fingerprinted and a search made of local, state, and national files to disclose any criminal record;
- (5) have been examined and certified by a licensed physician or surgeon to meet physical requirements necessary to properly fulfill the officer's particular responsibilities and shall have produced a negative result on a drug screen administered according to the following specifications:

- (a) the drug screen shall be a urine test consisting of an initial screening test using an immunoassay method and a confirmatory test on an initial positive result using a gas chromatography/mass spectrometry (GC/MS) or other reliable initial and confirmatory tests as may, from time to time, be authorized or mandated by the Department of Health and Human Services for Federal Workplace Drug Testing Programs;
- (b) a chain of custody shall be maintained on the specimen from collection to the eventual discarding of the specimen;
- (c) the drug screen shall test for the presence of at least cannabis, cocaine, phencyclidine (PCP), opiates and amphetamines or their metabolites;
- (d) the test threshold values established by the Department of Health and Human Services for Federal Workplace Drug Testing Programs, as found in 53 C.F.R. 11970, are hereby incorporated by reference, and shall automatically include any later amendments and editions of the incorporated material as provided by G.S. 150B-21.6;
- (e) the test conducted shall be not more than 60 days old, calculated from the time when the laboratory reports the results to the date of employment;
- (f) the laboratory conducting the test must be certified for federal workplace drug testing programs, and must adhere to applicable federal rules, regulations and guidelines pertaining to the handling, testing, storage and preservation of samples, except that individual agencies may specify other drugs to be tested for in addition to those drugs set out in Subparagraph (c) of this Rule;
- (6) have been administered a psychological screening examination by a clinical psychologist or psychiatrist licensed to practice in North Carolina or by a clinical psychologist or psychiatrist authorized to practice in accordance with the rules and regulations of the United States Armed Forces within one year prior to employment by the employing agency to determine the officer's mental and emotional suitability to properly fulfill the responsibilities of the position;
- (7) have been interviewed personally by the Department head or his representative or representatives, to determine such things as the applicant's appearance, demeanor, attitude, and ability to communicate;
- (8) notify the Standards Division of all criminal offenses which the officer is arrested for or charged with, pleads no contest to, pleads guilty to or is found guilty of. This shall include all criminal

offenses except minor traffic offenses and shall specifically include any offense of Driving Under The Influence (DUI) or Driving While Impaired (DWI). A minor traffic offense is defined, for purposes of this Subparagraph, as an offense where the maximum punishment allowable by law is 60 days or less. Other offenses under Chapter 20 (Motor Vehicles) of the General Statutes of North Carolina or similar laws of other jurisdictions which shall be reported to the Standards Division expressly include G.S. 20-139 (persons under influence of drugs), G.S. 20-28(b) (driving while license permanently revoked or permanently suspended) and G.S. 20-166 (duty to stop in event of accident).

The notifications required under this Subparagraph must be in writing, must specify the nature of the offense, the court in which the case was handled, ~~and the date of the conviction~~ arrest or criminal charge, and the date of final disposition. The notifications required under this Subparagraph must be received by the Standards Division within 30 days of the date the case was disposed of in court.

The requirements of this Subparagraph shall be applicable at all times during which the officer is certified by the Commission and shall also apply to all applications for certification.

Officers required to notify the Standards Division under this Subparagraph shall also make the same notification to their employing or appointing executive officer within 20 days of the date the case was disposed of in court. The executive officer, provided he has knowledge of the officer's ~~conviction(s)~~ arrest(s) or criminal charge(s) and final disposition(s), shall also notify the Standards Division of all ~~criminal convictions arrests or criminal charges and final dispositions~~ within 30 days of the date the case was disposed of in court. Receipt by the Standards Division of a single notification, from either the officer or the executive officer, is sufficient notice for compliance with this Subparagraph.

Authority: G.S. 17C-6; 17C-10.

SECTION .0200 - MINIMUM STANDARDS FOR CRIMINAL JUSTICE SCHOOLS AND CRIMINAL JUSTICE TRAINING PROGRAMS OR COURSES OF INSTRUCTION

.0210 RADAR INSTRUCTOR TRAINING COURSE

(a) The radar instructor training course ~~required for radar instructor certification shall consist of a minimum of 62 hours of instruction presented within a period not to exceed six consecutive weeks.~~ shall be designed to provide the trainee with the skills and knowledge to proficiently perform the function of a criminal justice radar instructor. This course shall be for a period not to exceed six consecutive weeks.

(b) Each radar instructor training course shall be designed to ~~provide the trainee with the skills and knowledge to proficiently perform the function of a criminal justice radar~~

instructor. The radar instructor training course required for radar instructor certification shall include but not be limited to the topic areas and minimum number of hours as outlined in The Radar Instructor Training Course. To qualify for radar instructor certification, an applicant shall meet the minimum requirements as outlined in The Radar Instructor Training Course and meet the requirements of 12 NCAC 9B .0408 and .0409.

(c) Each applicant for radar instructor training shall:

- (1) Present the endorsement of a commission-recognized school director or agency executive officer or his designee.
- (2) Possess criminal justice general instructor certification as required in 12 NCAC 9B .0302.

(d) Each radar instructor training course shall include but not be limited to the following topic areas and corresponding instructional hours and incorporate the corresponding minimum trainee performance objectives within the course curriculum:

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|-----|--|---------|
| (1) | Course Orientation | 2 Hours |
| (A) | description of the course content; | |
| (B) | outline of the performance requirements for successful completion of the radar instructor training program. | |
| (2) | North Carolina Administrative Code: Familiarization with the code as to radar training courses and certification requirements, to include completion of the forms that pertain to speed measurement instrument training. | 2 Hours |
| (3) | Overview and Introduction to Radar Training | 4 Hours |
| (A) | description of the objectives of a radar training program; | |
| (B) | identification of specific requirements for radar instructors, operators and equipment as set forth in the Radar Reliability Act (G.S. 17C and G.S. 8-50.2); | |
| (4) | Speed Offenses and Speed Enforcement | 6 Hours |
| (A) | description in quantitative and qualitative terms the association between speed offenses and motor vehicle accidents; | |
| (B) | description of major types of speed regulations, including origin, development, and scope of these regulations; | |
| (C) | description in quantitative and qualitative terms the safety benefits of effective speed enforcement in general and 55 mph in particular. | |
| (5) | Basic Principles of Radar Speed Measurement | 6 Hours |
| (A) | description of the basic operating principles of a stationary and moving radar instrument; | |
| (B) | explanation of the Doppler Principle in terms of how a radar signal is changed by reflection off a moving object; | |
| (C) | description of factors that can affect radar accuracy and effectiveness. | |

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| (6) | Legal and Operational Considerations | 8 Hours |
| (A) | identification and description of fundamental case law affecting the use of radar for speed measurement and enforcement; | |
| (B) | demonstration of basic skills in preparing and presenting evidence and testimony concerning speed enforcement and radar speed measurement; | |
| (C) | description and application of required operating procedures of radar instruments. | |
| (7) | Classroom Familiarization with Specific Radar Instruments: | 8 Hours |
| | demonstration of familiarity with the functions and operating procedures of approved radar instruments. | |
| (8) | Moot Court | 6 Hours |
| (A) | preparation of complete, concise and effective direct testimony for radar cases; | |
| (B) | respond properly and effectively to cross examination. | |
| (9) | Field Operation of Specific Radar Instrument | 8 Hours |
| (A) | description of the functional components of approved radar units; | |
| (B) | description of the setup, calibration, and operation procedures of approved radar units; | |
| (C) | operation and performance of all procedural requirements of actual patrol with approved radar units. | |
| (10) | Motor Skill Performance Testing: | 8 Hours |
| (A) | demonstration of the ability to successfully setup, calibrate and operate approved radar instruments for which the trainee seeks certification in accordance with criteria specified on a standardized trainee performance evaluation form; | |
| (B) | demonstration of the ability to estimate vehicular speed in accordance with criteria specified on a standardized trainee performance evaluation form. | |
| (11) | Course Review | 2 Hours |
| (12) | Written Test | 2 Hours |

Total 62 Hours

(ed) The "Radar Operator Instructor Training Course" as published by the North Carolina Justice Academy is hereby incorporated by reference, and shall automatically include any later amendments and editions of the incorporated material as provided by G.S. 150B-21.6, to apply as basic curriculum for the radar instructor training course for radar instructors as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division
North Carolina Department of Justice
4 West Morgan Street 114 West Edenton Street
Court of Appeals Building

Post Office Drawer 149
Raleigh, North Carolina 27602
and may be obtained for nineteen dollars (\$19.00) per copy: at
cost from the Academy at the following address:
North Carolina Justice Academy
Post Office Box 99
Salemberg, North Carolina 28385

(fe) Commission-accredited schools that are accredited to offer the "Radar Instructor Training Course" are: The North Carolina Justice Academy.

Authority G.S. 17C-6.

.0211 TIME-DISTANCE INSTRUCTOR TRAINING COURSE

(a) Each time-distance speed measurement instrument instructor training course shall consist of a minimum of 30 hours of instruction in addition to the requirements set forth in 12 NCAC 9B .0210(a). This additional 30 hours shall provide the trainee with the skills and knowledge to proficiently perform the function of a criminal justice time-distance speed measurement instrument instructor. The time-distance instructor training course shall be designed to provide the trainee with the skills and knowledge to proficiently perform the function of a time-distance instructor. This course shall be for a period not to exceed eight consecutive weeks.

(b) Each applicant for the time-distance speed measurement instrument instructor training course shall meet the minimum entry requirements of 12 NCAC 9B .0210(c) and 12 NCAC 9B .0309, and in addition thereto shall have successfully completed the training course of 12 NCAC 9B .0210(d). The time-distance instructor training course required for time-distance instructor certification shall include but not be limited to the topic areas and minimum number of hours as outlined in The Time-Distance Instructor Training Course. To qualify for time-distance instructor certification, an applicant shall meet the minimum requirements as outlined in The Time-Distance Instructor Training Course and meet the requirement of 12 NCAC 9B .0408 and .0409.

(c) Each time-distance speed measurement instrument instructor training course shall include all topic areas specified in 12 NCAC 9B .0210(d). The additional 30 instructional hours in the time-distance speed measurement instrument instructor training course shall include but not be limited to the following topic areas and corresponding instructional hours and incorporate the corresponding minimum trainee performance objectives within the course curriculum:

- (1) Overview and Introduction to Time-Distance Speed Measurement Instruments (TDSMI) Training -2 Hours
 - (A) description of the objectives of a time-distance speed measurement instrument training program;
 - (B) identification of specific requirements for TDSMI instructors, operators and equipment as set forth in G.S. 17C and G.S. 8-50.2;
- (2) Basic Principles of Time-Distance Speed Measurement Instruments 3 Hours

- (A) description of the basic principles on which time-distance speed measurement instruments operate;
 - (B) explanation of the procedures used in calibrating time-distance speed measurement instruments;
 - (C) description of the basic operating procedures required when employing time-distance speed measurement instruments.
- (3) Legal and Operational Consideration of Time-Distance Speed Measurement Instruments 4 Hours
- (A) demonstration of basic skills in preparing and presenting evidence and testimony concerning speed enforcement and speed measurement;
 - (B) identification and description of accepted operating procedures for the proper use of time-distance speed measurement instruments;
 - (C) identification and description of factors which may affect the selection of various speed measurement sites.
- (4) Classroom Familiarization with Specific Time-Distance Speed Measurement Instruments: 4 Hour
demonstration of the familiarity with the functions and operating procedures of approved time-distance speed measurement instruments.
- (5) Moot Court 2 Hours
- (A) preparation of complete, concise and effective direct testimony for time-distance speed measurement instrument cases;
 - (B) respond properly and effectively to cross examination.
- (6) Field Operation of Specific Time-Distance Speed Measurement Instruments 8 Hours
- (A) description of the functional components of approved time-distance speed measurement instruments;
 - (B) description of the setup, calibration and operation procedures of approved time-distance speed measurement instruments;
 - (C) operation and performance of all procedural requirements of actual patrol with approved time-distance speed measurement instruments.
- (7) Motor Skill Performance Testing: 8 Hours
- (A) demonstration of the ability to successfully setup, calibrate and operate approved time-distance speed measurement instruments for which the trainee seeks certification in accordance with criteria specified on a standardized trainee performance evaluation form;
 - (B) demonstration by the trainee of the ability to estimate vehicular speed using criteria

~~specified on a standardized trainee evaluation form. if the 30 hour time distance instructor course concludes more than six weeks after the trainee successfully completes the training specified in 12 NCAC 9B-.0240.~~

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|-------------------|--------|
| (8) Course Review | 1 Hour |
| (9) Written Test | 1 Hour |
| Total 30 Hours | |

(c) The "Time-Distance Operator Instructor Training Course" as published by the North Carolina Justice Academy is hereby adopted by reference, and shall automatically include any later amendments and editions of the incorporated material as provided by G.S. 150B-21.6, to apply as basic curriculum for the criminal justice time-distance speed measurement instrument instructor training course for time-distance speed measurement instructors as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division
North Carolina Department of Justice
1 West Morgan Street 114 West Edenton Street
Court of Appeals Building
Post Office Drawer 149
Raleigh, North Carolina 27602

and may be obtained at cost at the address in this Rule, from the Academy at the following address:

North Carolina Justice Academy
Post Office Box 99
Salemberg, North Carolina 28385

(d) Commission-accredited schools that are accredited to offer the "Criminal Justice TD/SMI Time-Distance Instructor Training Course" are: The North Carolina Justice Academy.

Authority: G.S. 17C-6.

.0212 CERTIFICATION TRAINING FOR RADAR OPERATORS

(a) The radar operator training course for law enforcement officers shall ~~consist of a minimum of 32 hours of instruction~~ be designed to provide the trainee with the skills and knowledge to proficiently perform ~~those tasks essential to the~~ function as of a law enforcement radar operator. This course shall be for a period not to exceed four consecutive weeks.

(b) Only employed or appointed personnel of a law enforcement agency shall be enrolled in the radar operator training course. Such a trainee shall not be certified as a radar operator until the basic law enforcement training course has been successfully completed and probationary or general law enforcement certification has been granted. Sheriffs, deputy sheriffs and federal law enforcement personnel, including but not limited to armed forces personnel, shall be allowed to participate in radar operator training courses on a space available basis at the discretion of the school director without having enrolled in or having successfully completed the basic law enforcement training course and without being currently certified in a probationary status or hold general law enforcement certification. The radar operator training course

required for radar operator certification shall include but not be limited to the topic areas and minimum number of hours as outlined in The Radar Operator Training Course. To qualify for radar operator certification, an applicant shall meet the minimum requirements as outlined in The Radar Operator Training Course and meet the requirements of 12 NCAC 9B .0408 and .0409.

(e) Each radar operator training course for law enforcement officers shall include the following topic areas and corresponding instructional hours and incorporate the corresponding minimum trainee performance objectives within the course curriculum:

- | | |
|---|---------|
| (1) Course Orientation: | 1 Hour |
| (A) description of the course content; | |
| (B) outline of the performance requirements for successful completion of the radar operator training program. | |
| (2) Speed Offenses and Speed Measurement: | 3 Hours |
| (A) description in quantitative and qualitative terms the association between speed offenses and motor vehicle accidents; | |
| (B) description of major types of speed regulations, including origin, development, and scope of these regulations; | |
| (C) description in quantitative and qualitative terms the safety benefits of effective speed enforcement in general. | |
| (3) Basic Principles of Radar Speed Measurement: | 5 Hours |
| (A) description of the basic operating principles of a stationary and moving radar instrument; | |
| (B) explanation of the Doppler Principle in terms of how a radar signal is changed by reflection off a moving object; | |
| (C) description of factors that can affect radar accuracy and effectiveness. | |
| (4) Legal and Operational Considerations: | 4 Hours |
| (A) identification and description of fundamental ease law affecting the use of radar for speed measurement and enforcement; | |
| (B) demonstration of basic skills in preparing and presenting evidence and testimony concerning speed enforcement and radar speed measurement; | |
| (C) description and application of accepted operating procedures of radar instruments; | |
| (D) demonstration of the ability to estimate vehicular speed in accordance with criteria specified on a standardized trainee performance evaluation form. | |
| (5) Classroom Familiarization with Specific Radar Instruments: | 2 Hours |
| demonstration of familiarity with the functions and operating procedures of radar instruments for which the trainee seeks certification. | |
| (6) Moot Court: | 4 Hours |
| (A) preparation of complete, concise and effective direct testimony for radar cases; | |

- (B) ~~respond properly and effectively to cross examination~~
- (7) ~~Supervised/Monitored Practice with Specific Radar Instruments: 6 Hours~~
- (A) ~~description of the functional components of the radar units for which the trainee seeks certification;~~
- (B) ~~description of the setup, calibration, and operation procedures of the radar units for which the trainee seeks certification;~~
- (C) ~~operation and performance of all procedural requirements of actual patrol with the radar units for which the trainee seeks certification.~~
- (8) ~~Motor-Skill Performance Testing: 4 Hours~~
~~demonstration of the ability to successfully setup, calibrate and operate the radar instruments for which the trainee seeks certification in accordance with criteria specified on a standardized trainee performance evaluation form.~~
- (9) ~~Course Review 1 Hour~~
- (10) ~~Written Test. 2 Hours~~
- ~~Total 32 Hours~~

(c) The "Radar Operator Training Course" as published by the North Carolina Justice Academy is hereby incorporated by reference, and shall automatically include any later amendments and editions of the incorporated material as provided by G.S. 150B-21.6, to apply as basic curriculum for the radar operator training course for radar operators as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division
 North Carolina Department of Justice
~~1 West Morgan Street 114 West Edenton Street~~
 Court of Appeals Building
 Post Office Drawer 149
 Raleigh, North Carolina 27602

and may be obtained at cost for nineteen dollars (\$19.00) per copy from the Academy at the following address:

North Carolina Justice Academy
 Post Office Box 99
 Salemburg, North Carolina 28385

Authority G.S. 17C-6.

.0213 CERTIFICATION TRAINING FOR RADAR/TIME-DISTANCE OPERATORS

(a) ~~Each The radar and time-distance speed measurement instrument operator training course for law enforcement officers shall consist of a minimum of 48 hours of instruction be designed to provide the trainee with the skills and knowledge to proficiently perform those tasks essential to the function as of a radar and time-distance speed measurement instrument operator. This course shall be for a period not to exceed four consecutive weeks.~~

(b) Only employed or appointed personnel of a law enforcement agency may be enrolled in the radar and time-distance speed measurement instrument operator training

course. Such a trainee shall not be certified as a radar and time-distance speed measurement instrument operator until the basic law enforcement training course has been successfully completed and probationary or general law enforcement certification has been granted. Sheriffs, deputy sheriffs, and federal law enforcement personnel, including but not limited to armed forces personnel, shall be allowed to participate in radar and time-distance speed measurement instrument operator training courses on a space available basis at the discretion of the school director without having enrolled in or having successfully completed the basic law enforcement training course and without being currently certified in a probationary status or holding general law enforcement certification. The radar/time-distance operator training course required for radar/time-distance operator certification shall include but not be limited to the topic areas and minimum number of hours as outlined in The Radar/Time-Distance Operator Training Course. To qualify for radar time-distance operator certification, an applicant shall meet the minimum requirements as outlined in The Radar/Time-Distance Operator Training Course and meet the requirements of 12 NCAC 9B .0408 and .0409.

~~(c) Each combined radar and time-distance speed measurement instrument operators' training course shall include all topic areas specified in 12 NCAC 9B .0212(c). The additional 16 instructional hours in the time-distance speed measurement instrument operators' training course shall include but not be limited to the following topic areas and corresponding instructional hours and incorporate the corresponding minimum trainee performance objectives within the course curriculum:~~

- (1) ~~Basic Principles of Time-Distance Speed Measurement Instruments: 4 Hour~~
- (A) ~~description of the basic principles on which time-distance speed measurement instruments operate;~~
- (B) ~~explanation of the procedures used in calibrating time-distance speed measurement instruments;~~
- (C) ~~description of the basic operating procedures required when employing time-distance speed measurement instruments.~~
- (2) ~~Legal and Operational Considerations of Time-Distance Speed Measurement Instruments: 2 Hours~~
- (A) ~~identification and description of fundamental case law affecting the use of time-distance speed measurement for speed enforcement;~~
- (B) ~~identification and description of accepted operating procedures for the proper use of time-distance speed measurement instruments;~~
- (C) ~~identification and description of factors which may affect the selection of various speed measurement sites.~~
- (3) ~~Classroom Familiarization with Specific Time-Distance Speed Measurement Instruments: 2 Hours~~

demonstration of familiarity with the functions and operating procedures time distance speed measurement instrument(s) for which the trainee seeks certification.

- (4) Moot Court: 2 Hours
 - (A) preparation of complete, concise and effective direct testimony for time distance speed measurement instrument cases;
 - (B) respond properly and effectively to cross examination.
- (5) Supervised/Monitored Practice with Specific Time Distance Speed Measurement Instruments: 5 Hours
 - (A) description of the functional components of the time distance speed measurement instrument(s) for which the trainee seeks certification;
 - (B) description of the setup, calibration and operation procedures of the time distance speed measurement instrument(s) for which the trainee seeks certification;
 - (C) operation and performance of all procedural requirements of actual patrol with the time distance speed measurement instrument for which the trainee seeks certification.
- (6) Motor Skill Performance Testing: 4 Hours

demonstration of the ability to successfully setup, calibrate and operate the time distance speed measurement instrument(s) for which the trainee seeks certification in accordance with criteria specified on a standardized trainee performance evaluation form.

Total: 16 Hours

(dc) The "Radar/Time-Distance Operator Training Course" as published by the North Carolina Justice Academy is hereby incorporated by reference, and shall automatically include any later amendments and editions of the incorporated material as provided by G.S. 150B-21.6, to apply as basic curriculum for the radar and time distance speed measurement instrument operator training course for radar and time distance speed measurement instrument operators as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division
 North Carolina Department of Justice
 1 West Morgan Street 114 West Edenton Street
 Court of Appeals Building
 Post Office Drawer 149
 Raleigh, North Carolina 27602

and may be obtained at cost for two dollars and fifty cents (\$2.50) per copy from the Academy at the following address:
 North Carolina Justice Academy
 Post Office Box 99
 Salemburg, North Carolina 28385

Authority G.S. 17C-6.

.0214 CERTIFICATION TRAINING FOR TIME-DISTANCE OPERATORS

(a) The time distance speed measurement operator training course for law enforcement officers shall consist of a minimum of 32 hours of instruction be designed to provide the trainee with the skills and knowledge to proficiently perform those tasks essential to the function as of a time distance speed measurement operator. This course shall not exceed four consecutive weeks.

(b) Only employed or appointed personnel of a law enforcement agency may be enrolled in the time distance speed measurement operator training course. Such a trainee shall not be certified as a time distance speed measurement operator until the basic law enforcement training course has been successfully completed and probationary or general law enforcement certification has been granted. Sheriffs, deputy sheriffs, and federal law enforcement personnel, including but not limited to armed forces personnel, shall be allowed to participate in time distance speed measurement operator training courses on a space available basis at the discretion of the school director without having enrolled in or having successfully completed the basic law enforcement training course and without being currently certified in a probationary status or holding general law enforcement certification. The time distance operator training course required for time distance operator certification shall include but not be limited to the topic areas and minimum number of hours as outlined in The Time-Distance Operator Training Course. To qualify for time distance operator certification, an applicant shall meet the minimum requirements as outlined in The Time-Distance Operator Training Course and meet the requirements of 12 NCAC 9B .0408 and .0409.

(c) Each time distance speed measurement instrument operator training course for law enforcement officers shall include the following topic areas and corresponding instructional hours and incorporate the corresponding minimum student performance objectives within the course curriculum:

- (1) Course Orientation: 1 Hour
 - (A) description of the course content;
 - (B) outline of the performance requirements for successful completion of the time distance speed measurement instrument operator training program.
- (2) Speed Offenses and Speed Measurement: 3 Hours
 - (A) description in quantitative and qualitative terms the association between speed offenses and motor vehicle accidents;
 - (B) description of major types of speed regulations, including origin, development, and scope of these regulations;
 - (C) description in quantitative and qualitative terms the safety benefits of effective speed enforcement in general.
- (3) Basic Principles of Time Distance Speed Measurement: 2 Hours
 - (A) description of the basic operating principles

- of — electronic — time-distance — speed measurement instruments;
- (B) ~~description of factors that can affect electronic time-distance speed measurement instrument accuracy and effectiveness.~~
- (4) Legal and Operational Considerations: 4 Hours
- (A) ~~identification and description of fundamental case law affecting the use of time-distance speed measurement for speed enforcement;~~
- (B) ~~description and application of accepted operating procedures of time-distance speed measurement instruments;~~
- (C) ~~demonstration of the ability to estimate vehicular speed in accordance with criteria specified on a standardized trainee performance evaluation form.~~
- (5) Classroom — Familiarization — with — Specific Time-Distance Speed Measurement Instruments: 2 Hours
- ~~demonstration of familiarity with the functions and operating procedures of time-distance speed measurement instruments for which the trainee seeks certification.~~
- (6) Moot Court: 4 Hours
- (A) ~~preparation of complete, concise and effective direct testimony for time-distance speed measurement cases;~~
- (B) ~~respond properly and effectively to cross examination;~~
- (C) ~~demonstration of basic skills in preparing and presenting evidence and testimony concerning speed enforcement and time-distance speed measurement.~~
- (7) Supervised Monitored — Practice — with — Specific Time-Distance Speed Measurement Instruments: 8 Hours
- (A) ~~description of the functional components of the time-distance speed measurement units for which the trainee seeks certification;~~
- (B) ~~description of the setup, calibration, and operation procedures of the time-distance speed measurement units for which the trainee seeks certification;~~
- (C) ~~operation and performance of all procedural requirements of actual patrol with the time-distance speed measurement units for which the trainee seeks certification.~~
- (8) Motor Skill Performance Testing: 5 Hours
- ~~demonstration of the ability to successfully setup, calibrate and operate the time-distance speed measurement instruments for which the trainee seeks certification in accordance with criteria specified on a standardized trainee performance evaluation form.~~
- (9) Course Review 4 Hour
- (10) Written Test 2 Hours
- Total 32 Hours
- (dc) The "Time-Distance Operator Training Course" as

published by the North Carolina Justice Academy is hereby incorporated by reference, and shall automatically include any later amendments and editions of the incorporated material as provided by G.S. 150B-21.6, to apply as basic curriculum for the time-distance speed measurement operator training course for time-distance speed measurement operators as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division
North Carolina Department of Justice
4 West Morgan Street 114 West Edenton Street
Court of Appeals Building
Post Office Drawer 149
Raleigh, North Carolina 27602

and may be obtained at cost for two dollars and fifty cents (\$2.50) per copy from the Academy at the following address:

North Carolina Justice Academy
Post Office Box 99
Salemberg, North Carolina 28385

Authority G.S. 17C-6.

.0215 SUPPLEMENTAL SMI TRAINING

(a) The supplemental speed measuring instrument (SMI) training course for law enforcement officers shall consist of a minimum of two hours of instruction for each additional speed measuring instrument the officer desires certification. This course is be designed to provide the trainee with the skills and knowledge to proficiently perform those tasks essential to function as an instructor or operator using the additional speed measuring instrument instrument(s).

(b) Each applicant for supplemental speed measuring instrument training shall:

- (1) possess a valid radar and/or time-distance speed measuring instrument instructor and/or operator certification as a result of successful completion of 12 NCAC 9B .0210, .0211, .0212, .0213 or .0214.
- (2) present the endorsement of a commission-recognized school director or agency executive officer or his designee.

(c) Each supplemental speed measuring instrument training course for law enforcement officers shall include the following topic areas and corresponding instructional hours and incorporate the corresponding performance objectives within the course curriculum: The supplemental SMI training course required for certification, on the additional instrument(s), shall include but not be limited to the topic areas and minimum number of hours as outlined in The Supplemental SMI Training Course. To qualify for certification, on the additional instrument(s), an applicant shall meet the minimum requirements as outlined in The Supplemental SMI Training Course and meet the requirements of 12 NCAC 9B .0408 and .0409.

- (1) Demonstration of familiarity with the functions and operating procedures of the additional speed measuring instrument(s) for which the officer desires certification. 1 1/2 Hours
- (2) Demonstrate 100 percent competence in the setup.

~~calibration and operation of the additional speed measuring instrument(s) in accordance with the criteria specified on a standardized performance evaluation form.~~ 1/2 Hour

Total 2 Hours

(d) Certification as instructor and/or operator of the additional speed measuring instruments shall expire on midnight of the date of expiration of the instructor and/or operator certification referred to in 12 NCAC 9B .0215(b) and .0310(a).

(e) The "Supplemental SMI Training Course" as published by the North Carolina Justice Academy is hereby incorporated by reference, and shall automatically include any later amendments and editions of the incorporated material as provided by G.S. 150B-21.6, to apply as basic curriculum for the supplemental SMI training course for SMI instructors or operators as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division
North Carolina Department of Justice
114 West Edenton Street
Post Office Drawer 149
Raleigh, North Carolina 27602

and may be obtained at cost from the Academy at the following address:

North Carolina Justice Academy
Post Office Box 99
Salemberg, North Carolina 28385

(f) Commission-accredited schools that are accredited to offer the "Supplemental SMI Training Course" for Instructors are: The North Carolina Justice Academy.

Authority G.S. 17C-6.

.0218 RE-CERTIFICATION TRAINING FOR RADAR INSTRUCTORS

(a) ~~Each retraining course for certified radar instructors The radar instructor re-certification training course shall consist of a minimum of 20 hours of instruction and testing be designed to provide the instructor with the skills and knowledge to continue to proficiently perform the function of a criminal justice radar instructor. This course shall be presented within a period not to exceed one week.~~

(b) Each applicant for a radar instructor retraining course shall:

- (1) possess criminal justice general instructor certification as required in 12 NCAC 9B .0302;
- (2) have been certified as a radar instructor within the three years preceding the completion date of the retraining course.

(c) ~~Each radar instructor retraining course shall include but not be limited to the following topic areas and corresponding instructional hours and incorporate the corresponding minimum trainee performance objectives within the course curriculum: The radar instructor re-certification training course required for radar instructor re-certification shall include but not be limited to the topic areas and minimum number of hours as outlined in The Radar Instructor Training~~

Course. To qualify for radar instructor re-certification, an applicant shall meet the minimum requirements as outlined in The Radar Instructor Training Course and meet the requirements of 12 NCAC 9B .0408 and .0409.

(1) ~~Course Orientation:~~ 1 Hour

- (A) ~~registration and description of course;~~
- (B) ~~review of the performance requirements for successful completion of the radar instructor retraining course;~~
- (C) ~~description of the objectives of the radar instructor retraining course.~~

(2) ~~Speed Offenses and Speed Enforcement:~~ 1 Hour

- (A) ~~review of the association between speed offenses and motor vehicle accidents;~~
- (B) ~~review of speed regulations, including origin, development of and scope of these regulations;~~
- (C) ~~review of safety benefits of effective speed enforcement.~~

(3) ~~Basic Principles of Radar Speed Measurement~~ 1 1/2 Hours

- (A) ~~review of the basic operating principles of stationary and moving radar;~~
- (B) ~~review of the Doppler Principle as it relates to police radar;~~
- (C) ~~review of factors that can affect radar accuracy.~~

(4) ~~Legal and Operational Considerations:~~ 1 1/2 Hours

- (A) ~~review of case law affecting the use of radar for speed measurement and enforcement;~~
- (B) ~~review of operator testing and calibrating procedures;~~
- (C) ~~review of required operating procedures of radar instruments.~~

(5) ~~Classroom Familiarization with Specific Radar Instruments:~~ 3 Hours

~~Review the functions, testing, and calibration procedures for each specific instrument.~~

(6) ~~Motor Skill Performance Testing:~~ 8 Hours

- (A) ~~demonstration of the ability to properly setup, test, calibrate and operate the radar instruments for which the instructor seeks re-certification in accordance with criteria specified on standardized performance evaluation forms;~~
- (B) ~~demonstration of the ability to estimate vehicular speed in accordance with criteria specified on standardized performance evaluation forms.~~

(7) ~~North Carolina Administrative Code and Motor Skill Forms:~~ 2 Hours

- (A) ~~review 12 NCAC 9 as to the requirements and rules relating to radar, time distance operator training, retraining, and certification;~~
- (B) ~~review all SMI forms used in administering radar, time distance training and certification courses.~~

(8) ~~Written Test:~~ 2 Hours

Total 20 Hours

(d) Commission-accredited schools that are accredited to offer the "Re-Certification Training for Radar Instructors" course are: The North Carolina Justice Academy. The "Radar Instructor Training Course" as published by the North Carolina Justice Academy is hereby incorporated by reference, and shall automatically include any later amendments and editions of the incorporated material as provided by G.S. 150B-21.6, to apply as basic curriculum for the radar instructor re-certification training course for radar instructors as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division
North Carolina Department of Justice
114 West Edenton Street
Post Office Drawer 149
Raleigh, North Carolina 27602

and may be obtained at cost from the Academy at the following address:

North Carolina Justice Academy
Post Office Box 99
Salemberg, North Carolina 28385

(e) Commission-accredited schools that are accredited to offer the "Radar Instructor Re-Certification Training Course" are: The North Carolina Justice Academy.

Authority G.S. 17C-6.

.0219 RE-CERTIFICATION TRAINING FOR TIME-DISTANCE INSTRUCTORS

(a) Each retraining The time-distance instructor re-certification training course for certified time-distance speed measurement instrument (TD-SMI) instructors shall consist of a minimum of 8 hours of instruction and testing in addition to the requirements set forth in 12 NCAC 9B .0218(a). This additional 8 hours shall provide the instructor with the skills and knowledge to continue to proficiently perform the function of a criminal justice instructor. be designed to provide the instructor with the skills and knowledge to continue to proficiently perform the function of a criminal justice time-distance instructor. This course shall be presented within a period not to exceed one week.

(b) Each applicant for the time-distance instructor retraining course shall:

- (1) Meet the minimum entry requirements of 12 NCAC 9B .0218(b) and in addition thereto shall have successfully completed the retraining courses of 12 NCAC 9B .0218(c).
- (2) Have been certified as a time-distance instructor within the three years preceding the completion date of the retraining course.

(c) Each time-distance instructor retraining course shall include all topic areas specified in 12 NCAC 9B .0218(e). The additional 8 instructional hours in the time-distance instructor retraining course shall include but not be limited to the following topic areas and corresponding instructional hours and incorporate the corresponding minimum trainee performance objectives within the course curriculum: The

time-distance instructor re-certification training course required for time-distance instructor re-certification shall include but not be limited to the topic areas and minimum number of hours as outlined in The Time-Distance Instructor Training Course. To qualify for time-distance instructor re-certification, an applicant shall meet the minimum requirements as outlined in The Time-Distance Instructor Training Course and meet the requirements of 12 NCAC 9B .0408 and .0409.

- (1) Basic Principles of Time-Distance Speed Measurement Instruments: 4 Hour
 - (A) review of the basic principles of the TD-SMI;
 - (B) review of the basic procedures used to calibrate TD-SMI;
 - (C) review of the basic operating procedures for the TD-SMI.
 - (2) Legal and Operational Considerations of Time-Distance Speed Measurement Instruments: 4 Hour
 - (A) review of case law affecting TD-SMI;
 - (B) review of required operating procedures for TD-SMI;
 - (C) review of factors which may affect the selection of speed measurement sites.
 - (3) Classroom Familiarization with Specific Time-Distance Speed Measurement Instruments: 1 1/2 Hour
 - (A) review of required testing and calibration procedures for specific TD-SMI;
 - (B) review all functions and controls of specific TD-SMI.
 - (4) Motor Skill Performance Testing: 4 1/2 Hours

demonstration of the ability to properly setup, test, calibrate, and operate the time-distance instrument for which the instructor seeks re-certification in accordance with criteria specified on standardized performance evaluation forms.
 - (5) Written Test: 4 Hour
- Total 8 Hours

(d) Commission-accredited schools that are accredited to offer the "Re-Certification Training for TD-SMI Instructors" course are: The North Carolina Justice Academy. The "Time-Distance Instructor Training Course" as published by the North Carolina Justice Academy is hereby incorporated by reference, and shall automatically include any later amendments and editions of the incorporated material as provided by G.S. 150B-21.6, to apply as basic curriculum for the time-distance instructor re-certification training course for time-distance instructors as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

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North Carolina Department of Justice
114 West Edenton Street
Post Office Drawer 149

Raleigh, North Carolina 27602
and may be obtained at cost from the Academy at the
following address:

North Carolina Justice Academy
Post Office Box 99
Salemburg, North Carolina 28385

(e) Commission-accredited schools that are accredited to
offer the "Time-Distance Instructor Re-Certification Training
Course" are: The North Carolina Justice Academy.

Authority G.S. 17C-6.

.0220 RE-CERTIFICATION COURSE FOR RADAR OPERATORS

(a) ~~Each The radar operator re-certification training course~~
~~for radar operators shall consist of a minimum of 8 hours of~~
~~review and testing be designed to provide the law enforcement~~
~~officer with determine if the individual possesses the skills~~
~~and knowledge to continue to proficiently perform those tasks~~
~~essential the function as of a radar operator. This course shall~~
~~be presented within a period not to exceed one week.~~

(b) Each applicant for a radar operator re-certification
course shall meet the requirements of 12 NCAC 9C .0308(c)
and (d).

(c) Federal law enforcement personnel shall be allowed to
participate in radar operator re-certification courses at the
discretion of the school director without meeting the
requirements specified in 12 NCAC 9B .0220(b), but such
personnel must have successfully completed the radar operator
training course (12 NCAC 9B .0212) or the radar TD SMI
operator training course (12 NCAC 9B .0213).

(d) The radar operator re-certification training course
required for radar operator re-certification shall include but
not be limited to the topic areas and minimum number of
hours as outlined in The Radar Operator Training Course. To
qualify for radar operator re-certification, an applicant shall
meet the minimum requirements as outlined in The Radar
Operator Training Course and meet the requirements of 12
NCAC 9B .0408 and .0409.

~~(de) Each radar operator re-certification course shall~~
~~include the following topic areas and corresponding testing~~
~~hours and incorporate the corresponding minimum trainee~~
~~performance objectives within the course~~
~~curriculum. Academy: The "Radar Operator Training Course"~~
~~as published by the North Carolina Justice Academy is hereby~~
~~incorporated by reference, and shall automatically include any~~
~~later amendments and editions of the incorporated material as~~
~~provided by G.S. 150B-21.6, to apply as basic curriculum for~~
~~the radar operator re-certification training course for radar~~
~~operators as administered by the Commission. Copies of this~~
~~publication may be inspected at the office of the agency:~~

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North Carolina Department of Justice
114 West Edenton Street
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following address:

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Post Office Box 99
Salemburg, North Carolina 28385

- | | | |
|-----|--|---------------|
| (1) | Course Orientation: | 1/2 Hour |
| (A) | registration and description of course; | |
| (B) | review of the performance requirements for | |
| | successful completion of the radar operator | |
| | re-certification course. | |
| (2) | Legal and Operational Considerations: | 1 1/2 Hours |
| (A) | review of operator testing and calibration | |
| | procedures; | |
| (B) | review of required operating procedures of | |
| | radar instruments. | |
| (3) | Motor Skill Performance Testing: | 4 Hours |
| (A) | demonstration of the ability to properly | |
| | setup, test, calibrate and operate the radar | |
| | instruments for which the operator seeks | |
| | re-certification in accordance with criteria | |
| | specified on standardized performance | |
| | evaluation forms; | |
| (B) | demonstration of the ability to estimate | |
| | vehicular speed in accordance with criteria | |
| | specified on standardized performance | |
| | evaluation forms. | |
| (4) | Written Test | 2 Hours |
| | | Total 8 Hours |

Authority G.S. 17C-6.

.0221 RE-CERTIFICATION COURSE FOR RADAR/TIME-DISTANCE OPERATORS

(a) ~~Each The radar/time-distance operator re-certification~~
~~training course for radar and time-distance speed measurement~~
~~instrument operators shall consist of a minimum of 13 hours~~
~~of review and testing be designed to determine if the~~
~~individual possesses provide the law enforcement officer with~~
~~the skills and knowledge to continue to proficiently perform~~
~~those tasks essential to the function as of a radar and~~
~~time-distance operator. This course shall be presented within~~
~~a period not to exceed one week.~~

(b) Each applicant for a radar and time-distance operator
re-certification course shall meet the requirements of 12
NCAC 9C .0308(c) and (d).

(c) Federal law enforcement personnel shall be allowed to
participate in radar and time-distance operator re-certification
courses at the discretion of the school director without
meeting the requirements specified in 12 NCAC 9B .0221(b),
but such personnel must have successfully completed the radar
and TD/SMI operator training course (12 NCAC 9B .0213) or
the radar operator training course (12 NCAC 9B .0212) and
the TD/SMI operator training course (12 NCAC 9B .0214).

(d) The radar/time-distance operator re-certification
training course required for radar/time-distance operator re-
certification shall include but not be limited to the topic areas
and minimum number of hours as outlined in The Radar/Time-
Distance Operator Training Course. To qualify for radar/time-
distance operator re-certification, an applicant shall meet the
minimum requirements as outlined in The Radar/Time-

Distance Operator Training Course and meet the requirements of 12 NCAC 9B .0408 and .0409.

(d e) Each combined re-certification course for radar and time-distance speed measurement instrument operators shall include all topic areas specified in 12 NCAC 9B .0220(d). The additional 5 hours in the time-distance speed measurement instrument operators re-certification course shall include but not be limited to the following topic areas and corresponding testing hours and incorporate the corresponding minimum trainee performance objectives within the course curriculum: Academy. The "Radar Time-Distance Operator Training Course" as published by the North Carolina Justice Academy is hereby incorporated by reference, and shall automatically include any later amendments and editions of the incorporated material as provided by G.S. 150B-21.6, to apply as basic curriculum for the radar time-distance operator re-certification training course for radar time-distance operators as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

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Post Office Box 99
Salemberg, North Carolina 28385

- | | | |
|-----|--|---------|
| (1) | Motor Skill Performance Testing: | 4 Hours |
| | Demonstration of the ability to properly setup, test, calibrate, and operate the time-distance instruments for which the operator seeks re-certification in accordance with criteria specified on standardized performance evaluation forms. | |
| (2) | Written Test | 4 Hour |
| | Total | 5 Hours |

Authority G.S. 17C-6.

.0222 RE-CERTIFICATION COURSE FOR TIME-DISTANCE OPERATORS

(a) Each re-certification The time-distance operator re-certification training course for time-distance speed measurement instrument (TD-SMI) operators shall consist of a minimum of 8 hours of review and testing be designed to determine if the individual possesses provide the trainee with the skills and knowledge to continue to proficiently perform those tasks essential to the function as of a time-distance operator. This course shall be presented within a period not to exceed one week.

(b) Each applicant for a time-distance operator re-certification course shall meet the requirements of 12 NCAC 9C .0308(c) and (d).

(c) Federal law enforcement personnel shall be allowed to participate in time-distance operator re-certification courses at

the discretion of the school director without meeting the requirements specified in 12 NCAC 9B .0222(b), but such personnel must have successfully completed the radar and TD-SMI operator training course (12 NCAC 9B .0213) or the TD-SMI operator training course (12 NCAC 9B .0214).

(d) The time-distance operator re-certification training course required for time-distance operator re-certification shall included but not be limited to the topic areas and minimum number of hours as outlined in The Time-Distance Operator Training Course. To qualify for time-distance operator re-certification, an applicant shall meet the minimum requirements as outlined in The Time-Distance Operator Training Course and meet the requirements of 12 NCAC 9B .0408 and .0409.

(de) Each time-distance operator re-certification course shall include the following topic areas and corresponding testing hours and incorporate the corresponding minimum trainee performance objectives within the course curriculum: Academy. The "Time-Distance Operator Training Course" as published by the North Carolina Justice Academy is hereby incorporated by reference, and shall automatically include any later amendments and editions of the incorporated material as provided by G.S. 150B-21.6, to apply as basic curriculum for the time-distance operator re-certification training course for time-distance operators as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division
North Carolina Department of Justice
114 West Edenton Street
Post Office Drawer 149
Raleigh, North Carolina 27602

and may be obtained at cost from the Academy at the following address:

North Carolina Justice Academy
Post Office Box 99
Salemberg, North Carolina 28385

- | | | |
|-----|--|-------------|
| (1) | Course Orientation: | 1/2 Hour |
| | (A) registration and description of course: | |
| | (B) review of the performance requirements for successful completion of the TD-SMI operator re-certification course: | |
| (2) | Legal and Operational Considerations: | 1 1/2 Hours |
| | (A) review of operator testing and calibration procedures: | |
| | (B) review of required operating procedures of time distance instruments: | |
| (3) | Motor Skill Performance Testing: | 4 Hours |
| | (A) demonstration of the ability to properly setup, test, calibrate, and operate the time-distance instruments for which the operator seeks re-certification in accordance with criteria specified on standardized performance evaluation forms: | |
| | (B) demonstration of the ability to estimate vehicular speed in accordance with criteria specified on standardized performance | |

evaluation forms:

(4) — Written Test:	2 Hours
Total:	8 Hours

Authority G.S. 17C-6.

**SECTION .0300 - MINIMUM STANDARDS FOR
CRIMINAL JUSTICE INSTRUCTORS**

.0301 CERTIFICATION OF INSTRUCTORS

(a) Any person participating in a commission-accredited criminal justice training course or program as an instructor, teacher, professor, lecturer, or other participant making presentations to the class shall first be certified by the Commission as an instructor.

(b) Any existing commission-issued certifications, excluding Radar Instructor Certifications and Radar and Time-Distance Speed Measurement Instrument Instructor Certifications, issued and valid on January 1, 1985 are automatically extended with an expiration date of December 31, 1986. Previously issued certifications with established expiration dates extending beyond December 31, 1986 are declared to be terminated and void on and after December 31, 1986. All new applicants for instructor certification shall meet the requirements of this Section after January 1, 1985. All applicants whose certification was previously extended to December 31, 1986 shall meet the requirements of this Section on or before January 1, 1987.

(c) The Commission shall certify instructors under the following categories: General Instructor Certification, Specific Instructor Certification or Professional Lecturer Certification as outlined in Rules .0302, .0304 and .0306 of this Section. Such instructor certification shall be granted on the basis of documented qualifications of experience, education, and training in accord with the requirements of this Section and reflected on the applicant's Request for Instructor Certification Form.

(d) In addition to all other requirements of this Section, each instructor certified by the Commission to teach in a Commission-accredited course shall remain competent in his/her specific or specialty areas and shall attend and successfully complete any instructor updates as deemed necessary and appropriate by the Commission.

(de) The Standards Division may notify an applicant for instructor certification or a certified instructor that a deficiency appears to exist and attempt, in an advisory capacity, to assist the person in correcting the deficiency.

(ef) When any person certified as an instructor by the Commission is found to have knowingly and willfully violated any provision or requirement of these Rules, the Commission may take action to correct the violation and to ensure that the violation does not recur, including:

- (1) issuing an oral warning and request for compliance;
- (2) issuing a written warning and request for compliance;
- (3) issuing an official written reprimand;
- (4) suspending the individual's certification for a specified period of time or until acceptable corrective action is taken by the individual;

- (5) revoking the individual's certification.

(fg) The Commission may deny, suspend, or revoke an instructor's certification when the Commission finds that the person:

- (1) has failed to meet and maintain any of the requirements for qualification; or
- (2) has failed to remain currently knowledgeable in the person's areas of expertise; or
- (3) has failed to deliver training in a manner consistent with the instructor lesson plans outlined in the "Basic Instructor Training Manual" as found in 12 NCAC 9B .0209; or
- (4) has failed to follow specific guidelines outlined in the "Basic Law Enforcement Training Course Management Guide: eq as found in 12 NCAC 9B .0205; or
- (5) has demonstrated unprofessional personal conduct in the delivery of commission-mandated training; or
- (6) has otherwise demonstrated instructional incompetence; or
- (7) has knowingly and willfully obtained, or attempted to obtain instructor certification by deceit, fraud, or ~~misrepresentation~~ misrepresentation; or
- (8) has failed to meet or maintain good moral character as required to effectively discharge the duties of a criminal justice instructor.

Statutory Authority G.S. 17C-6.

.0309 TIME-DISTANCE INSTRUCTORS

In addition to all requirements contained in 12 NCAC 9B .0308 of this Section, applicants in this category shall complete ~~a 30 hour~~ an instructor training course in time-distance speed measurement as required in 12 NCAC 9B .0211. An applicant meeting the requirements for ~~radar and T/D~~ time-distance speed measurement instrument instructor certification shall be issued a certification to run concurrently with the existing radar instructor certification.

Statutory Authority G.S. 17C-6.

.0310 TERMS AND CONDITIONS -- SMI INSTRUCTORS

(a) The term of a ~~radar~~ Speed Measurement Instrument (SMI) instructor ~~or a radar and time-distance speed measurement instrument instructor~~ is ~~two~~ three years from the date the Commission issues the certificate, unless sooner terminated by the Commission. The certificate may be renewed for subsequent three year periods. The SMI instructor desiring renewal shall:

- (1) Hold general instructor certification as required in 12 NCAC 9B .0303.
- (2) Have been active in the SMI classroom instructional process during the previous certification period.
- (3) Successfully complete a commission-approved SMI instructor re-certification course as required in 12 NCAC 9B .0218 or .0219.

(b) All SMI instructors seeking re-certification shall successfully complete the re-certification course within 12 months from expiration of the initial certification period or re-certification period. If re-certification training is not obtained within the 12-month period, successful completion of the appropriate instructor training program as required in 12 NCAC 9B .0308 will be required to obtain instructor certification. This prescribed 12-month period does not extend the instructor certification period.

Authority G.S. 17C-6.

.0311 CERTIFIED INSTRUCTORS PRE 7/1/82

Any radar or radar and time-distance ~~speed measurement instrument~~ instructors certified pursuant to standards in effect between November 1, 1981 and July 1, 1982 shall continue to hold certification with full force and effect. The terms and conditions of 12 NCAC 9B .0310 shall apply to these instructors.

Authority G.S. 17C-6.

SECTION .0400 - MINIMUM STANDARDS FOR COMPLETION OF TRAINING

.0404 TRAINEE ATTENDANCE

(a) Each trainee enrolled in an accredited "Basic Recruit Training--Law Enforcement" course shall attend all class sessions. The trainee's department head shall be responsible for the trainee's regular attendance at criminal justice training courses in which the trainee is enrolled.

(b) The school director may recognize valid reasons for class absences and may excuse a trainee from attendance at specific class sessions. However, in no case may excused absences exceed 10 percent of the total class hours for the course offering.

(c) If the school director grants an excused absence from a class session, he shall schedule appropriate make-up work and ensure the satisfactory completion of such work during the current course presentation or in a subsequent course delivery as is permissible under Rule 9B .0405.

(d) A trainee shall not be eligible for administration of the comprehensive written examination nor certification for successful course completion if the cumulative total of class absences, with accepted make-up work, exceeds ten percent of the total class hours of the accredited course offering and shall be expediently terminated from further course participation by the school director at the time of such occurrence.

(e) A school director may terminate a trainee from course participation or may deny certification of successful course completion where the trainee is habitually tardy to, or regularly departs early from, class meetings or field exercises.

(f) Where a trainee is enrolled in a program as required in 12 NCAC 9B .0212, .0213, .0214, .0215, .0218, .0219, .0220, .0221, or .0222, and the scheduled course hours exceed the minimum requirements of the Commission, the trainee, upon the authorization of the school director, may be deemed to have satisfactorily completed the required number of hours for

attendance provided the trainee's attendance is not less than 100 percent of the minimum instructional hours as required by the Commission.

(g) A trainee enrolled in a presentation of the "Criminal Justice Instructor Training Course" under Rule .0209 of this Subchapter shall not be absent from class attendance for more than 10 percent of the total scheduled delivery period in order to receive successful course completion.

(h) A trainee, enrolled in a presentation of the local confinement facility course under Rule .0225 of this Subchapter, shall not be absent from class attendance for more than 10 percent of the total scheduled delivery period in order to receive successful course completion. The school director shall schedule appropriate make-up work and ensure the satisfactory completion of such work during the current course presentation for all absenteeism.

(i) A trainee, enrolled in a presentation of the "Specialized Instructor Training - Firearms" course under Rule .0226 of this Subchapter, the "Specialized Instructor Training - Driving" course under Rule .0227 of this Subchapter, or the "Specialized Instructor Training - Defensive Tactics" course under Rule .0232 of this Subchapter, shall not be absent from class attendance for more than 10 percent of the total scheduled delivery period in order to receive successful course completion. Appropriate make-up work must be completed during the current course presentation for all absenteeism.

(j) A trainee, enrolled in a presentation of the "Radar Instructor Training Course" under Rule .0210 of this Subchapter, or the "Time-Distance ~~Speed-Measurement Instrument~~ Instructor Training Course" under Rule .0211 of this Subchapter, shall not be absent from class attendance for more than 10 percent of the total scheduled delivery period in order to receive successful course completion. Appropriate make-up work must be completed during the current course presentation for all absenteeism.

Authority G.S. 17C-2; 17C-6; 17C-10.

.0408 COMPREHENSIVE WRITTEN EXAMINATION -- BASIC CERTIFICATION

(a) At the conclusion of the classroom instruction portion of a school's offering of ~~the radar, radar and time-distance and time-distance~~ any speed measurement instrument operators' courses and re-certification courses, an authorized representative of the Commission shall administer to all candidates for certification as operators a comprehensive written examination.

(b) The examination shall be an objective test covering the topic areas contained in the accredited course curriculum.

(c) The Commission's representative shall submit to the school director within five days of the administration of the examination a report of the results of the test for each candidate for certification.

(d) A trainee shall pass the operating training course as ~~specified~~ required in Rules 9B .0212, .0213, and .0214 by achieving a minimum of 70 percent correct answers.

(e) An operator seeking recertification shall pass the

operator training recertification courses as specified in Rules 9B .0220, .0221 and .0222 by achieving a minimum of 75 percent correct answers.

(f) A trainee who has fully participated in a scheduled delivery of an accredited training course and has demonstrated 100 percent competence in each motor-skill or performance area of the course curriculum but has failed to achieve the minimum score, as specified in (d) of this Rule, on the Commission's comprehensive written examination may request the director of the Standards Division to authorize a re-examination of the trainee.

- (1) The trainee's request for re-examination shall be made in writing on the Commission's form and shall be received by the Standards Division within 30 days of the examination.
- (2) The trainee's request for re-examination shall include the favorable recommendation of the school director who administered the course.
- (3) A trainee shall have, within 90 days of the original examination, only one opportunity for re-examination and shall satisfactorily complete the subsequent examination in its entirety.
- (4) The trainee will be ~~assigned in writing~~ notified by the Standards Division staff of a place, time, and date for re-examination.
- (5) If the trainee fails to achieve the prescribed minimum score on the re-examination, the trainee may not be recommended for certification and shall enroll and complete a subsequent course offering in its entirety before further examination may be permitted.

Authority G.S. 17C-6.

.0409 SATISFACTION OF MINIMUM TRAINING -- SMI OPERATORS

(a) To satisfy the minimum training requirements for operator certification, a trainee shall complete all of the following:

- (1) achieve a score of 70 percent correct answers on the comprehensive written examination, provided for in 12 NCAC 9B .0408(d).
- (2) demonstrate successful completion of an accredited offering of courses as prescribed under either 12 NCAC 9B .0210, .0211, .0212, .0213, .0214 or .0215 as shown by the certification of the school director.
- (3) demonstrate 100 percent proficiency in the motor-skill and performance subject areas as demonstrated to a certified ~~radar or time-distance~~ Speed Measurement Instrument (SMI) instructor and further evidenced through documentation on the Commission's SMI ~~1, 2, 3 or 4~~ forms and by the subscribing instructor's certification of trainee competence.
- (4) present evidence showing ~~completion of a minimum of eight hours of radar training prior to enrollment~~ prior North Carolina certification in a

commission-accredited operator training course as prescribed in 12 NCAC 9B .0212 or 12 NCAC 9B ~~.0213~~ .0213, or present evidence showing prior certification which meets or exceeds North Carolina certification, or present evidence showing completion of 16 hours of supervised field practice within 90 days after completing a commission-accredited radar operator training course as prescribed in 12 NCAC 9B .0212 or 12 NCAC 9B .0213.

(b) Any trainee failing to achieve 100 percent proficiency in the motor-skill area may request written permission from the Director of the Standards Division for re-examination.

- (1) The trainee's request for re-examination shall be made in writing and must be received by the Standards Division within 30 days of the original examination.
- (2) The trainee's request for re-examination shall include the favorable recommendation of the school director who administered the course.
- (3) A trainee shall have, within 90 days of the original examination, only one opportunity for motor-skill re-examination and must satisfactorily complete each identified area of deficiency on the original motor-skill examination.
- (4) The trainee will be ~~assigned in writing~~ notified by ~~the Director of~~ the Standards Division staff of a place, time and date for re-examination.
- (5) If the trainee fails to achieve the prescribed minimum score on the examination, the trainee will not be recommended for certification and shall enroll and complete a subsequent course offering in its entirety before further examination may be permitted.

(c) To satisfy the minimum training requirements for operator re-certification, an operator seeking re-certification shall:

- (1) Achieve a score of 75 percent correct answers on the comprehensive written examination provided for in 12 NCAC 9B .0408(e).
- (2) Demonstrate successful completion of an accredited offering of courses as prescribed under either 12 NCAC 9B .0218, .0219, .0220, .0221, or .0222 as shown by the certification of the school director.
- (3) Satisfy all motor-skill requirements as required in 12 NCAC 9B .0409(a)(3).

(d) At the time a trainee seeking operator re-certification fails to achieve the prescribed minimum requirements on the comprehensive written examination as specified in 12 NCAC 9B .0409(c)(1), certification of the officer automatically and immediately terminates and that officer will not be re-certified until successful completion of a subsequent course offering as prescribed under either 12 NCAC 9B .0210, .0211, .0212, .0213, or .0214 before further examination may be permitted.

(e) At the time a trainee seeking operator re-certification fails to achieve the prescribed minimum motor-skill requirements as specified in 12 NCAC 9B .0409(c)(3), certification of the officer automatically and immediately

terminates and that officer shall not be re-certified until successful completion of the required motor-skill testing. Provided, however, such an officer may request re-examination as prescribed in 12 NCAC 9B .0409(b).

Authority G.S. 17C-6.

.0414 COMPREHENSIVE WRITTEN EXAM -- SPECIALIZED INSTRUCTOR TRAINING

(a) At the conclusion of a school's offering of the "Specialized Instructor Training - Firearms" course, the "Specialized Instructor Training - Driving" course, the "Specialized Instructor Training - Defensive Tactics" course, the "Specialized Instructor Training - Physical Fitness" course, the "Radar Instructor Training Course," the "Criminal Justice ~~TD-SMI~~ Time-Distance Instructor Training Course," the "Re-Certification Training for Radar Instructors" course, and the "Re-Certification Training for ~~TD-SMI~~ Time-Distance Instructors" course, in its entirety, an authorized representative of the Commission shall administer a comprehensive written examination to each trainee who has satisfactorily completed all of the required course work. A trainee cannot be administered the comprehensive written examination until such time as all of the pertinent course work is completed.

(b) The examination shall be an objective test consisting of multiple-choice, true-false, or similar questions covering the topic areas contained in the accredited course curriculum.

(c) The Commission's representative shall submit to the school director within five days of the administration of the examination a report of the results of the test for each trainee examined.

(d) A trainee shall successfully complete the comprehensive written examination if he/she achieves a minimum of 75 percent correct answers.

(e) A trainee who fails to achieve the minimum score of 75 percent on the Commission's comprehensive written examination shall not be given successful course completion and shall enroll and successfully complete a subsequent offering of the specialized instructor training course in its entirety before further examination may be permitted.

Authority G.S. 17C-6; 17C-10.

.0416 SATISFACTION OF MINIMUM TRAINING -- SMI INSTRUCTOR

(a) To acquire successful completion of the "~~Radar Instructor Training Course,~~" the "~~Time-Distance Speed Measurement Instrument (SMI) Instructor Training Course Courses,~~" and the "~~Re-Certification Training for Radar Instructors~~" course and the "~~Re-Certification Training for Time-Distance Speed Measurement Instrument SMI Instructors Re-Certification Courses~~" course, the trainee shall:

- (1) satisfactorily complete all required course work as specified in Rules .0210, .0211, .0218, and .0219 of this Subchapter for the specific course in attendance; and,
- (2) achieve a score of 75 percent correct answers on a commission-administered comprehensive written

examination.

(b) If the trainee passes the written examination but fails to meet the minimum criteria on an area of motor-skills testing, he/she shall be authorized one opportunity for a re-test. Such re-test must be at the recommendation of the school director and a request must be made to the Standards Division within 30 days of the original testing. Re-examination must be completed within 90 days of the original testing. Failure on the re-test requires enrollment in a subsequent instructor course.

Authority G.S. 17C-6; 17C-10.

SUBCHAPTER 9C - ADMINISTRATION OF CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS

SECTION .0300 - CERTIFICATION OF CRIMINAL JUSTICE OFFICERS

.0308 SPEED MEASUREMENT INSTRUMENT OPERATORS CERTIFICATION PROGRAM

(a) Certification shall be issued in one of the following categories:

- (1) radar operator Speed Measurement Instrument (SMI) certification or re-certification requiring successful completion of the training program as required in 12 NCAC 9B .0210, .0211, .0212, .0213, .0218, .0219, .0220, ~~or .0221;~~ .0221, or .0222;
- (2) radar and time-distance speed measurement instrument operator certification or re-certification requiring successful completion of the training program as required in 12 NCAC 9B .0211, .0213, .0219, or .0221;
- (3) time-distance speed measurement instrument operator certification or re-certification requiring successful completion of the training program as required in 12 NCAC 9B .0211, .0213, .0214, .0219, .0221, or .0222.

(b) Certification in either category will reflect operational proficiency in the designated type(s) of approved equipment for which the trainee has been examined and tested. Such certification shall be for a ~~two~~ three year period from the date of issue and re-certifications shall be for a three year period from the date of issue, unless sooner terminated by the Commission. ~~However, if retesting on the motor-skill area is necessary, re-certification shall be for a two year period from the date of issue, unless sooner terminated by the Commission.~~ At a minimum, the applicant shall meet the following requirements for operator certification or re-certification within 90 days of course completion and upon the presentation of documentary evidence showing that the applicant:

- (1) has successfully completed the training program as required in 12 NCAC 9B .0210, .0211, .0212, .0213, .0214, .0218, .0219, .0220, .0221, or .0222; and
- (2) has successfully completed a

- commission-accredited basic law enforcement training course as required in 12 NCAC 9B .0400 and is currently certified in a probationary status or holds general law enforcement certification; or
- (3) if the applicant is a sheriff, deputy sheriff, or other sworn appointee with arrest authority governed by the provisions of Chapter 17E of the General Statutes, has met and is in total compliance with the then current employment and training standards as established and made effective for such position by the North Carolina Sheriffs' Education and Training Standards Commission.

(c) Certified operators shall be notified by the Commission not less than 90 days prior to expiration of certification. All applicants for re-certification shall successfully complete a commission-approved re-certification course within 12 months from the expiration of the previous certification. If re-certification is not obtained within the 12 month period, successful completion of the appropriate operator training programs as required by 12 NCAC 9B .0409(a) will be required to obtain operator certification. This prescribed 12 month period shall not extend the operator certification period beyond its specified expiration date. When a re-certification course is successfully completed prior to the expiration of the previous certification, the new certification shall be issued by the Criminal Justice Standards Division effective upon the receipt of the Post-delivery Report of Training Course Presentation.

(d) Re-certification shall be issued only to officers with current law enforcement certification.

(e) All certifications issued pursuant to this Rule and the standards in effect between November 1, 1981 and July 1, 1982 shall continue with full force and effect; however, said certifications shall be subject to the provisions of 12 NCAC 9C .0308(c) and (d).

Authority: G.S. 17C-6.

TITLE 15A - DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Notice is hereby given in accordance with G.S. 150B-21.2 that the DENR - Soil & Water Conservation Commission intends to amend rule cited as 15A NCAC 6E .0105. Notice of Rule-making Proceedings was published in the Register on April 15, 1998.

Proposed Effective Date: April 1, 1999

Instructions on How to Demand a Public Hearing (must be requested in writing within 15 days of notice): Any person requesting that the Soil and Water Conservation Commission conduct a public hearing on this proposed amendment must submit a written request by July 16, 1998 to Vernon Cox, Division of Soil & Water Conservation, PO Box 27687, Raleigh, NC 27611. The request must specify which rule the

hearing is being requested on. Written requests submitted by mail must be postmarked no later than July 16, 1998.

Reason for Proposed Action: Funds from the Agriculture Cost Share Program may be combined with other potential funding sources to encourage the adoption of conservation practices to protect water quality. Current program rules limit combined cost share funding to 75 percent of the cost of Best Management Practices (BMPs). Where agricultural land is entered into long term or permanent easements and all production capability is prohibited, it is anticipated that 100 percent funding for BMPs may be required to encourage participation by landowners. The proposed amendment would increase the combined funding limit of the Agriculture Cost Share Program to 100 percent for BMPs installed on lands where a conservation practice requires the participant to relinquish all production capability on his or her land for at least ten years. In no case would the Agriculture Cost Share Program contribution exceed the statutory limit of 75 percent.

Comment Procedures: All persons interested in this proposed amendment are encouraged to submit written comments. Comments must be postmarked by July 31, 1998 and submitted to Vernon Cox, Division of Soil & Water Conservation, PO Box 27687, Raleigh, NC 27611.

Fiscal Note: This Rule does not affect the expenditures or revenues of state or local government funds. This Rule does not have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period.

CHAPTER 6 - SOIL AND WATER CONSERVATION COMMISSION

SUBCHAPTER 6E - AGRICULTURE COST SHARE PROGRAM FOR NONPOINT SOURCE POLLUTION CONTROL

SECTION .0100 - AGRICULTURE COST SHARE PROGRAM

.0105 COST SHARE AND INCENTIVE PAYMENTS

(a) Cost share and incentive payments may be made through LTA's or AA's between the district and the applicant.

(b) For all practices except those eligible for CSI, the state shall provide 75 percent and the applicant 25 percent of the average cost for BMP installation. In-kind contributions by the applicant shall be included in the applicants' cost share contribution. In-kind contributions shall be specified in the agreement for cost sharing and shall be approved by the district.

(c) Payments for BMP's restricted to the CSI shall be limited to a maximum of three years per farm.

(d) Average installation costs for each comparative area or region of the state and the amount of cost share incentive

payments shall be updated and revised annually by the division for approval by the commission.

(e) The maximum total cost share payments to an applicant shall be limited to seventy-five thousand dollars (\$75,000) per year.

(f) Cost share payments to implement BMP's under this program may be combined with other funding programs, as long as the combined cost share rate does not exceed the amount and percentages set forth in Paragraphs (b) and (e) of this Rule. For special funding programs where the applicant relinquishes all production capability on his or her agriculture land for at least 10 years, combined funding may equal up to 100 percent.

(g) Use of cost share payments is restricted to land located within the county approved for funding by the commission. In the situation where an applicant's farm is not located solely within a county, the entire farm, if contiguous, shall be eligible for cost share payments.

(h) Cost share contracts used on or for local, state or federal government land must be approved by the commission in order to avoid potential conflicts of interest and to ensure that such contracts are consistent with the purposes of this program.

Authority G.S. 139-4; 139-8; 143-215.74; 143B-294.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Coastal Resources Commission intends to amend rules cited as 15A NCAC 7H .0308 and .1705. Notice of Rule-making Proceedings was published in the Register on February 16, 1998.

Proposed Effective Date: April 1, 1999

A Public Hearing will be conducted at 4:00 p.m. on July 23, 1998 at the Hilton Hotel, 207 Southwest Greenville Blvd., Greenville, NC 27834.

Reason for Proposed Action: The proposed rules will allow replacement of sandbags within their permitted dimensions within the time period originally authorized by a CAMA permit, the protection of multiple buildings on the same property, and the incremental protection of buildings and roads.

Comment Procedures: Contact Charles Jones, Assistant Director, 151-B Hwy. 24, Morehead City, NC 28570. Written comments will be accepted through July 31, 1998.

Fiscal Note: These Rules affects the expenditure or revenues of state government funds. These Rules do not have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period.

CHAPTER 7 - COASTAL MANAGEMENT

SUBCHAPTER 7H - STATE GUIDELINES FOR AREAS OF ENVIRONMENTAL CONCERN

SECTION .0300 - OCEAN HAZARD AREAS

.0308 SPECIFIC USE STANDARDS FOR OCEAN HAZARD AREAS

(a) Ocean Shoreline Erosion Control Activities:

(1) Use Standards Applicable to all Erosion Control Activities:

- (A) All oceanfront erosion response activities shall be consistent with the general policy statements in 15A NCAC 7M .0200.
- (B) Permanent erosion control structures may cause significant adverse impacts on the value and enjoyment of adjacent properties or public access to and use of the ocean beach, and, therefore, are prohibited. Such structures include, but are not limited to: bulkheads; seawalls; revetments; jetties; groins and breakwaters.
- (C) Rules concerning the use of oceanfront erosion response measures apply to all oceanfront properties without regard to the size of the structure on the property or the date of its construction.
- (D) All permitted oceanfront erosion response projects, other than beach bulldozing and temporary placement of sandbag structures, shall demonstrate sound engineering for their planned purpose.
- (E) Shoreline erosion response projects shall not be constructed in beach or estuarine areas that sustain substantial habitat for important fish and wildlife species unless adequate mitigation measures are incorporated into project design, as set forth in Rule .0306(i) of this Section.
- (F) Project construction shall be timed to minimize adverse effects on biological activity.
- (G) Prior to completing any erosion response project, all exposed remnants of or debris from failed erosion control structures must be removed by the permittee.
- (H) Erosion control structures that would otherwise be prohibited by these standards may be permitted on finding that:
 - (i) the erosion control structure is necessary to protect a bridge which provides the only existing road access to a substantial population on a barrier island; that is vital to public safety; and is imminently threatened by erosion;
 - (ii) the erosion response measures of relocation, beach nourishment or temporary stabilization are not

- adequate to protect public health and safety; and
- (iii) the proposed erosion control structure will have no adverse impacts on adjacent properties in private ownership and will have minimal impacts on public use of the beach.
- (I) Structures that would otherwise be prohibited by these standards may also be permitted on finding that:
 - (i) the structure is necessary to protect an historic site of national significance, which is imminently threatened by shoreline erosion; and
 - (ii) the erosion response measures of relocation, beach nourishment or temporary stabilization are not adequate and practicable to protect the site; and
 - (iii) the structure is limited in extent and scope to that necessary to protect the site; and
 - (iv) any permit for a structure under this Part (I) may be issued only to a sponsoring public agency for projects where the public benefits clearly outweigh the short or long range adverse impacts. Additionally, the permit must include conditions providing for mitigation or minimization by that agency of any significant and unavoidable adverse impacts on adjoining properties and on public access to and use of the beach.
- (J) Structures that would otherwise be prohibited by these standards may also be permitted on finding that:
 - (i) the structure is necessary to maintain an existing commercial navigation channel of regional significance within federally authorized limits; and
 - (ii) dredging alone is not practicable to maintain safe access to the affected channel; and
 - (iii) the structure is limited in extent and scope to that necessary to maintain the channel; and
 - (iv) the structure will not result in substantial adverse impacts to fisheries or other public trust resources; and
 - (v) any permit for a structure under this Part (J) may be issued only to a sponsoring public agency for projects where the public benefits clearly outweigh the short or long range adverse impacts. Additionally, the permit must include conditions providing for mitigation or minimization by that agency of any significant and unavoidable adverse impacts on adjoining properties and on public access to and use of the beach.
- (K) Proposed erosion response measures using innovative technology or design will be considered as experimental and will be evaluated on a case-by-case basis to determine consistency with 15A NCAC 7M .0200 and general and specific use standards within this Section.
- (2) Temporary Erosion Control Structures:
 - (A) Permittable temporary erosion control structures shall be limited to sandbags placed above mean high water and parallel to the shore.
 - (B) Temporary erosion control structures as defined in Part (2)(A) of this Subparagraph may be used only to protect imminently threatened roads and associated right of ways, and buildings and associated septic systems. A structure will be considered to be imminently threatened if its foundation septic system, or right-of-way in the case of roads, is less than 20 feet away from the erosion scarp. Buildings and roads located more than 20 feet from the erosion scarp or in areas where there is no obvious erosion scarp may also be found to be imminently threatened when site conditions, such as a flat beach profile or accelerated erosion, tend to increase the risk of imminent damage to the structure.
 - (C) Temporary erosion control structures may be used to protect only the principal structure and its associated septic system, but not such appurtenances as gazebos, decks or any amenity that is allowed as an exception to the erosion setback requirement.
 - (D) Temporary erosion control structures may be placed seaward of a septic system when there is no alternative to relocate it on the same or adjoining lot so that it is landward of or in line with the structure being protected.
 - (E) Temporary erosion control structures must not extend more than 20 feet past the sides of the structure to be protected. The landward side of such temporary erosion control structures shall not be located more than 20 feet seaward of the structure to be protected or the right-of-way in the case of roads.
 - (F) A temporary erosion control structure may remain in place for up to two years after the date of approval if it is protecting a building

with a total floor area of 5000 sq. ft. or less, or, for up to five years if the building has a total floor area of more than 5000 sq. ft. A temporary erosion control structure may remain in place for up to five years if it is protecting a bridge or a road. The property owner will be responsible for removal of the temporary structure within 30 days of the end of the allowable time period. A temporary erosion control structure may remain in place for up to five years regardless of the size of the structure if the community in which it is located is actively pursuing a beach nourishment project. For purposes of this Rule, a community is considered to be actively pursuing a beach nourishment project if it has:

- (i) been issued a CAMA permit approving such project, or
 - (ii) been deemed worthy of further consideration by a U.S. Army Corps of Engineers' Beach Nourishment Reconnaissance Study, or
 - (iii) received a favorable economic evaluation report on a federal project approved prior to 1986.
- (G) Once the temporary erosion control structure is determined to be unnecessary due to relocation or removal of the threatened structure, it must be removed by the property owner within 30 days.
- (H) Removal of temporary erosion control structures may not be required if they are covered by dunes with vegetation sufficient to be considered stable and natural.
- (I) The property owner shall be responsible for the removal of remnants of all portions of any damaged temporary erosion control structure.
- (J) Sandbags used to construct temporary erosion control structures shall be tan in color and three to five feet wide and seven to 15 feet long when measured flat. Base width of the structure shall not exceed 20 feet, and the height shall not exceed six feet.
- (K) Soldier pilings and other types of devices to anchor sandbags shall not be allowed.
- (L) ~~Construction of a temporary erosion control structure can be approved only once on any property regardless of ownership. An immanently threatened structure may be protected only once, regardless of ownership. In the case of a building, a temporary erosion control structure may be extended, or new segments constructed, if additional areas of the building become immanently threatened. Where temporary structures are installed or extended~~

incrementally, the time period for removal under Part (F) of this Subparagraph shall begin at the time the initial erosion control structure is installed. For the purpose of this Rule:

- (i) a building and septic system will be considered as separate structures.
 - (ii) a road or highway shall be allowed to be incrementally protected as sections become immanently threatened. The time period for removal of each section of sandbags shall begin at the time that section is installed in accordance with Part (F) of this Subparagraph.
- (M) Existing sandbag structures can be ~~maintained provided that the permitted dimensions are not exceeded, repaired or replaced within their originally permitted dimensions during the time period allowed under Part (F) of this Subparagraph.~~
- (N) Existing sandbag structures that have been properly installed prior to May 1, 1995 shall be allowed to remain in place according to the provisions of Parts (F), (G) and (H) of this Subparagraph with the pertinent time periods beginning on May 1, 1995.
- (3) Beach Nourishment. Sand used for beach nourishment shall be compatible with existing grain size and type. Sand to be used for beach nourishment shall be taken only from those areas where the resulting environmental impacts will be minimal.
- (4) Beach Bulldozing. Beach bulldozing (defined as the process of moving natural beach material from any point seaward of the first line of stable vegetation to create a protective sand dike or to obtain material for any other purpose) is development and may be permitted as an erosion response if the following conditions are met:
- (A) The area on which this activity is being performed must maintain a slope of adequate grade so as to not endanger the public or the public's use of the beach and shall follow the pre-emergency slope as closely as possible. The movement of material utilizing a bulldozer, front end loader, backhoe, scraper, or any type of earth moving or construction equipment shall not exceed one foot in depth measured from the pre-activity surface elevation;
 - (B) The activity must not exceed the lateral bounds of the applicant's property unless he has permission of the adjoining land owner(s);
 - (C) Movement of material from seaward of the low water line will require a CAMA Major Development and State Dredge and Fill

Permit;

- (D) The activity must not significantly increase erosion on neighboring properties and must not have a significant adverse effect on important natural or cultural resources;
- (E) The activity may be undertaken to protect threatened on-site waste disposal systems as well as the threatened structure's foundations.

(b) Dune Establishment and Stabilization. Activities to establish dunes shall be allowed so long as the following conditions are met:

- (1) Any new dunes established shall be aligned to the greatest extent possible with existing adjacent dune ridges and shall be of the same general configuration as adjacent natural dunes.
- (2) Existing primary and frontal dunes shall not, except for beach nourishment and emergency situations, be broadened or extended in an oceanward direction.
- (3) Adding to dunes shall be accomplished in such a manner that the damage to existing vegetation is minimized. The filled areas will be immediately replanted or temporarily stabilized until planting can be successfully completed.
- (4) Sand used to establish or strengthen dunes must be of the same general characteristics as the sand in the area in which it is to be placed.
- (5) No new dunes shall be created in inlet hazard areas.
- (6) Sand held in storage in any dune, other than the frontal or primary dune, may be redistributed within the AEC provided that it is not placed any farther oceanward than the crest of a primary dune or landward toe of a frontal dune.
- (7) No disturbance of a dune area will be allowed when other techniques of construction can be utilized and alternative site locations exist to avoid unnecessary dune impacts.

(c) Structural Accessways:

- (1) Structural accessways shall be permitted across primary dunes so long as they are designed and constructed in a manner which entails negligible alteration on the primary dune. Structural accessways may not be considered threatened structures for the purpose of Paragraph (a) of this Rule.
- (2) An accessway shall be conclusively presumed to entail negligible alteration of a primary dune:
 - (A) The accessway is exclusively for pedestrian use;
 - (B) The accessway is less than six feet in width; and
 - (C) The accessway is raised on posts or pilings of five feet or less depth, so that wherever possible only the posts or pilings touch the frontal dune. Where this is deemed impossible, the structure shall touch the dune only to the extent absolutely necessary. In no case shall an accessway be permitted if it

will diminish the dune's capacity as a protective barrier against flooding and erosion; and

- (D) Any areas of vegetation that are disturbed are revegetated as soon as feasible.
- (3) An accessway which does not meet Part (2)(A) and (B) of this Paragraph shall be permitted only if it meets a public purpose or need which cannot otherwise be met and it meets Part (2)(C) of this Paragraph. Public fishing piers shall not be deemed to be prohibited by this Rule, provided all other applicable standards are met.
- (4) In order to avoid weakening the protective nature of primary and frontal dunes a structural accessway (such as a "Hatteras ramp") shall be provided for any off-road vehicle (ORV) or emergency vehicle access. Such accessways shall be no greater than 10 feet in width and shall be constructed of wooden sections fastened together over the length of the affected dune area.
- (d) Construction Standards. New construction and substantial improvements (increases of 50 percent or more in value on square footage) to existing construction shall comply with the following standards:
 - (1) In order to avoid unreasonable danger to life and property, all development shall be designed and placed so as to minimize damage due to fluctuations in ground elevation and wave action in a 100 year storm. Any building constructed within the ocean hazard area shall comply with the North Carolina Building Code including the Coastal and Flood Plain Construction Standards, Chapter 34, Volume I or Section 39, Volume I-B and the local flood damage prevention ordinance as required by the National Flood Insurance Program. If any provision of the building code or a flood damage prevention ordinance is inconsistent with any of the following AEC standards, the more restrictive provision shall control.
 - (2) All structures in the ocean hazard area shall be on pilings not less than eight inches in diameter if round or eight inches to a side if square.
 - (3) All pilings shall have a tip penetration greater than eight feet below the lowest ground elevation under the structure. For those structures so located on the primary dune or nearer to the ocean, the pilings must extend to five feet below mean sea level.
 - (4) All foundations shall be adequately designed to be stable during applicable fluctuations in ground elevation and wave forces during a 100 year storm. Cantilevered decks and walkways shall meet this standard or shall be designed to break-away without structural damage to the main structure.

Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b)(6)a.,b.,d.; 113A-124.

SECTION .1700 - GENERAL PERMIT FOR

**EMERGENCY WORK REQUIRING A CAMA
AND/OR A DREDGE AND FILL PERMIT**

.1705 SPECIFIC CONDITIONS

(a) Temporary Erosion Control Structures in the Ocean Hazard AEC.

- (1) Permittable temporary erosion control structures shall be limited to sandbags placed above mean high water and parallel to the shore.
- (2) Temporary erosion control structures as defined in Subparagraph (1) of this Paragraph may be used only to protect imminently threatened roads and associated right of ways, and buildings and associated septic systems. A structure will be considered to be imminently threatened if its foundation, septic system, or, right-of-way in the case of roads, is less than 20 feet away from the erosion scarp. Buildings and roads located more than 20 feet from the erosion scarp or in areas where there is not obvious erosion scarp may also be found to be imminently threatened when site conditions, such as a flat beach profile or accelerated erosion, tend to increase the risk of imminent damage to the structure.
- (3) Temporary erosion control structures may be used to protect only the principal structure and its appurtenances as gazebos, decks or any amenity that is allowed as an exception to the erosion setback requirement.
- (4) Temporary erosion control structures may be placed seaward of a septic system when there is no alternative to relocate it on the same or adjoining lot so that it is landward of or in line with the structure being protected.
- (5) Temporary erosion control structures must not extend more than 20 feet past the sides of the structure to be protected. The landward side of such temporary erosion control structures shall not be located more than 20 feet seaward of the structure to be protected or the right-of-way in the case of roads.
- (6) The permittee shall be responsible for the removal of remnants of all or portions of any damaged temporary erosion control structure.
- (7) A temporary erosion control structure may remain in place for up to two years after the date of approval if it is protecting a building with a total floor area of 5000 sq. ft. or less, or, for up to five years if the building has a total floor area of more than 5000 sq. ft. A temporary erosion control structure may remain in place for up to five years if it is protecting a bridge or a road. The property owner shall be responsible for removal of the temporary structure within 30 days of the end of the allowable time period. A temporary erosion control structure may remain in place for up to five years regardless of the size of the structure if the

community in which it is located is actively pursuing a beach nourishment project. For purposes of this Rule, a community is considered to be actively pursuing a beach nourishment project if it has:

- (A) been issued a CAMA permit approving such project, or
 - (B) been deemed worthy of further consideration by a U.S. Army Corps of Engineers' Beach Nourishment Reconnaissance Study, or
 - (C) received a favorable economic evaluation report on a federal project approved prior to 1986.
- (8) Once the temporary erosion control structure is determined to be unnecessary due to relocation or removal of the threatened structure, it must be removed by the permittee within 30 days.
 - (9) Removal of temporary erosion control structures shall not be required if they are covered by dunes with vegetation sufficient to be considered stable and natural.
 - (10) Sandbags used to construct temporary erosion control structures shall be tan in color and three to five feet wide and seven to 15 feet long when measured flat. Base width of the structure shall not exceed 20 feet, and the height shall not exceed six feet.
 - (11) Soldier pilings and other types of devices to anchor sandbags shall not be allowed.
 - (12) Excavation below mean high water in the Ocean Hazard AEC may be allowed to obtain material to fill sandbags used for emergency protection.
 - (13) ~~Construction of a temporary erosion control structure shall be approved only once on any property regardless of ownership. An immanently threatened structure may only be protected once regardless of ownership. In the case of a building, a temporary erosion control structure may be extended, or new segments constructed, if additional areas of the building become immanently threatened. Where temporary structures are installed or extended incrementally, the time period for removal under Subparagraph (7) of this Paragraph shall begin at the time the initial erosion control structure is installed. For the purpose of this Rule:~~
 - (A) a building and septic system will be considered as separate structures.
 - (B) a road or highway shall be allowed to be incrementally protected as sections become immanently threatened. The time period for removal of each section of sandbags shall begin at the time that section is installed in accordance with Subparagraph (7) of this Paragraph.
 - (14) Existing sandbag structures may be maintained ~~provided that the permitted dimensions are not exceeded.~~ repaired or replaced within their

originally permitted dimensions during the time period allowed under Subparagraph (7) of this Paragraph.

- (15) Existing sandbag structures that have been properly installed prior to May 1, 1995 shall be allowed to remain in place according to the provisions of Subparagraphs (7), (8) and (9) of this Paragraph with the pertinent time periods beginning on May 1, 1995.

(b) Erosion Control Structures in the Estuarine Shoreline, Estuarine Waters, and Public Trust AECs. Work permitted by this general permit shall be subject to the following limitations:

- (1) no work shall be permitted other than that which is necessary to reasonably protect against or reduce the imminent danger caused by the emergency or to restore the damaged property to its condition immediately before the emergency;
- (2) the erosion control structure shall be located no more than 20 feet waterward of the endangered structure;
- (3) fill material used in conjunction with emergency work for storm or erosion control in the Estuarine Shoreline, Estuarine Waters and Public Trust AECs shall be obtained from an upland source.

(c) Protection, Rehabilitation, or Temporary Relocation of Public Facilities or Transportation Corridors.

- (1) Work permitted by this general permit shall be subject to the following limitations:
 - (A) no work shall be permitted other than that which is necessary to reasonably protect against or reduce the imminent danger caused by the emergency or to restore the damaged property to its condition immediately before the emergency;
 - (B) the erosion control structure shall be located no more than 20 feet waterward of the endangered structure;
 - (C) any fill materials used in conjunction with emergency work for storm or erosion control shall be obtained from an upland source except that dredging for fill material to protect public highways or other structures of public interest will be considered on a case-by-case basis;
 - (D) all fill materials or structures associated with temporary relocations which are located within Coastal Wetlands, Estuarine Water, or Public Trust AECs shall be removed after the emergency event has ended and the area restored to pre-disturbed conditions.
- (2) This permit only authorizes the immediate protection or temporary rehabilitation or relocation of existing public facilities. Long-term stabilization or relocation of public facilities shall be consistent with local governments' post-disaster recovery plans and policies which are part of their Land Use Plans.

Authority G.S. 113-229(cl); 113A-107(a),(b); 113A-113(b); 113A-118.1.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Commission for Health Services intends to adopt the rule cited as 15A NCAC 18A .2543 and amend the rule(s) cited as 15 NCAC 18A .2508, .2513, .2515, .2517-.2518, .2522, .2526, .2528, .2530-.2532, .2535, .2537, .2539. Notice of Rule-making Proceedings was published in the Register on October 15, 1997.

Proposed Effective Date: April 1, 1999

A Public Hearing will be conducted at 2:30 p.m. on August 5, 1998 at the Archdale Building, Ground Floor Hearing Room, 512 N. Salisbury Street, Raleigh, NC.

Reason for Proposed Action: Meetings with stakeholders resulted in proposed amendments to existing rules and proposed adoption of one new rule.

Comment Procedures: Send comments to Jim Hayes, Environmental Health Services Section, PO Box 29534, Raleigh, NC 27626-0534. Written comments will be accepted through August 5, 1998.

Fiscal Note: These Rules do not affect the expenditures or revenues of state or local government funds. These Rules do not have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period.

CHAPTER 18 - ENVIRONMENTAL HEALTH

SUBCHAPTER 18A - SANITATION

SECTION .2500 - PUBLIC SWIMMING POOLS

.2508 DEFINITIONS

The following definitions shall apply throughout this Section:

- (1) Equipment replacement means replacement of individual components of the hydraulic and disinfection systems such as pumps, filters, and automatic chemical feeders.
- (2) Public swimming pool means public swimming pool as defined in G.S. 130A-280. Public swimming pools are divided into three types:
 - (a) Swimming pools are all public swimming pools except spas and wading pools.
 - (b) Spas are special facilities designed for recreational and therapeutic use which are not drained, cleaned, or refilled after each individual use. Spas may include, but not be limited to, units designed for hydrojet circulation, hot water, cold water mineral

bath, air induction bubbles, or any combination thereof. Common terminology for spas includes "therapeutic pool", "hydrotherapy pool", "whirlpool", "hot spa", and "hot tub".

- (c) Wading pools are small, shallow swimming pools not more than 24 inches deep designed for use by children.
- (3) Remodeled means renovations requiring disruption of major portions of the pool shell or deck, changes in the pool profile, or redesign of the pool hydraulic system. Remodeled does not include equipment replacement or repair or addition of outlets for the purpose of reducing suction hazards.
- (4) Repair means repair of existing equipment, replastering or repainting of the pool interior, replacement of tiles or coping and similar maintenance activities. This term includes replacement of pool decks where the Department has determined that no changes are needed to underlying pipes or other pool structures.

Authority G.S. 130A-282.

.2513 SEWAGE SYSTEMS AND OTHER WASTEWATER DISPOSAL

(a) Sewage shall be disposed of in a public sewer system or, in the absence of a public sewer system, by an approved, properly operating sanitary sewage system.

(b) There shall be no direct physical connection between the sewer system and any drain from the swimming pool or circulation system. Any overflow from the swimming pool, deck drain or overflow and discharges from the circulation system, when discharged to the sewer system, storm drain or other approved natural drainage course, shall be discharged through a suitable air gap so as to preclude the possibility of back flow of sewage or other waste water into the swimming pool or the swimming pool piping system. Deck drainage shall be discharged through an indirect drain.

Authority G.S. 130A-282.

.2515 DESIGN DETAILS

(a) Pools shall be designed and constructed to withstand all anticipated loadings for both full and empty conditions.

(b) A hydrostatic relief valve shall be provided for in-ground swimming pools which extend more than two feet below the grade of surrounding land surface unless a gravity drainage system is provided.

(c) Provisions shall be made for complete, continuous circulation of water through all areas of the swimming pool. Swimming pools shall have a circulation system with approved treatment, disinfection, and filtration equipment as required in these Rules.

(d) The minimum depth of water in the swimming pool shall be three feet (0.91 m) except for special purpose swimming pools for which a minimum depth of less than three feet is required or for restricted or recessed areas in swimming

pools which are set aside primarily for the use of children and handicapped persons. Such areas when included as part of the swimming pool shall be separated from the swimming pool proper by a safety line supported by buoys and attached to the side walls.

(e) The maximum depth at the shallow end of the swimming pool shall be 3.5 feet (1.07 m) except for competitive or other special purpose swimming pools for which a minimum depth of greater than 3.5 feet is required.

(f) Connections for safety lines shall be recessed in the walls in a manner which presents no hazard to swimmers.

(g) Decorative features such as planters, fountains, waterfalls and swim-up bars located on pool decks shall comply with the following:

- (1) Shall not occupy more than 20 percent of the pool perimeter;
- (2) If located adjacent to a water depth of greater than five feet, shall not be more than 20 feet wide;
- (3) Shall not provide handholds or footholds that could encourage climbing above deck level;
- (4) A walkway shall be provided to permit free access around decorative features and shall be as wide as the lesser of five feet or the required deck width;
- (5) Shall not obstruct the view of any part of the pool from any seating area;
- (6) Features with moving water shall be separate from the pool recirculation system;
- (7) Stools provided for swim-up bars shall be located in a separate alcove from the swimming area with a depth of no more than 42 inches of water and shall be marked with a color which contrasts with the pool bottom.

Authority G.S. 130A-282.

.2517 DIVING EQUIPMENT

(a) When diving equipment is installed, it shall be located in the diving area of the pool so as to provide the minimum dimensions as shown in Tables 1A and 1B of this Rule and shall conform to the following specifications:

- (1) Diving equipment shall be designed for swimming pool use and shall be installed in accordance with the manufacturer's recommendations.
- (2) Installation instructions and specifications shall be provided with each unit.
- (3) A label shall be permanently affixed to the diving equipment and shall include:
 - (A) manufacturer's name and address;
 - (B) board length;
 - (C) type of diving board;
 - (D) fulcrum setting specifications if applicable.
- (4) Diving equipment shall have slip-resistant tread surfaces.

(b) Supports, platforms, and steps for diving equipment shall be of substantial construction, and of sufficient strength to carry safely the maximum anticipated loads. Steps shall be of corrosion-resistant design. Handrails shall be provided at all steps and ladders leading to diving boards which are one

meter or more above the water.

(c) There shall be a completely unobstructed clear vertical distance of 13 feet above any diving board measured from the center of the front end of the board. This area shall extend horizontally at least eight feet behind, eight feet to each side, and 16 feet ahead of Point A in Table 1A.

Table 1A

Maximum Board Length	Maximum Board Height Above Water	Board Overhang (Pt. A)		Minimum Water Depths		
		Max.	Min.	D1	D2	D3
12'	up to 30"	5'	4'0"	8'0"	9'0"	8'3"
16'	1 Mtr.	6'	5'0"	8'6"	9'3" 10'0"	8'6"
16'	3 Mtrs.	6'	5'0"	11'6"	12'0"	11'6"

KEY TO ABBREVIATIONS:

Pt A is the point on the water line of the pool directly beneath the end of the diving board.

D1 is the depth of the water measured from the water line to the floor at the beginning of the radius connecting the end wall with the floor at the deep end of the pool.

D2 is the depth of the water at the deepest point in the pool.

D3 is the depth of the water at the point where the deep area of the pool meets the transition to the shallow area of the pool.

Table 1B

Maximum Board Length	Horizontal Distances						Minimum Pool Width	Minimum Separation Distances	
	L1	L2	L3	L4	L5	L6		F	G
12'	3'	7'	10'3"	9'9"	30'	4'	20'	10'	10'
16'	5'	5'	11'6"	10'6"	32'	4'	24'	12'	10'
16'	5'	5'	7'6"	19'6"	37'	3'	28'	14'	12'

KEY TO ABBREVIATIONS:

L1 is the radius of the curve connecting the side wall to the floor at the deep end of the pool.

L2 is the distance between the center of the radius connecting the end wall to the floor at the deep end of the pool and the deepest point in the pool.

L3 is the distance between the deepest point in the pool and the beginning of the transition to the shallow area of the pool.

L4 is the length of the transition zone.

L5 is the total of L1 + L2 + L3 + L4.

L6 is the length of the shallow area of the pool.

F is the distance between the side wall of the pool and the centerline of the diving board.

G is the distance between the center lines of two adjacent diving boards.

(d) Public pools with diving facilities in excess of three meters in height, or pools designed for platform diving, shall be approved on a case-by-case basis.

(e) Minimum water depth for diving platforms used for racing starts during competition and practice shall be measured at a

distance of 3 feet, 3 1/2 inches (1.0 meter) to 16 feet, 5 inches (5.0 meters) from the end wall. Height of starting blocks shall not exceed the following:

- (1) In pools with water depth less than 3 feet, 6 inches (1.07 meters) at the starting end, raised starting platforms shall be prohibited.
- (2) In pools with water depth 3 feet, 6 inches (1.07 meters) to less than 4 feet (1.22 meters) at the starting end, starting platforms shall be no more than 18 inches (0.46 meter) above the water surface.
- (3) In pools with a water depth of 4 feet (1.22 meters) or greater at the starting end, starting platforms shall be no more than 30 inches (0.762 meter) above the surface of the water. Starting platforms shall be constructed to be easily removed from the deck when the swimming pool is used for other than competitive purposes.

Authority G.S. 130A-282.

2518 CIRCULATION SYSTEM

- (a) Pools shall be equipped with a circulation system.
- (b) The capacity of the circulation system shall be sufficient to clarify and disinfect the entire volume of swimming pool water four times in 24 hours. The system shall be operated 24 hours per day during the operating season.
- (c) The piping of the circulation system shall be designed and installed so that the main drains, and the lines from the perimeter overflow system or the automatic surface skimmers shall be connected to the suction line of the circulation pump.
- (d) The circulation piping shall be designed and installed with the necessary valves and pipes so that the flow from the swimming pool can be from main drains or the surface overflow system. The circulation piping shall be designed such the flow of water from the swimming pool can be simultaneous from the surface overflow system and the main drains. Skimmer piping shall be sized to handle the maximum flow rate for the required number of skimmers, but in no case less than 50 percent of the design flow rate. Perimeter overflow system piping shall be sized to handle 50 percent of the design flow rate. The main drain piping shall be sized to handle 50 percent of the design flow rate.
- (e) Piping shall be designed to reduce friction losses to a minimum and to carry the required quantity of water at a maximum velocity not to exceed six feet (1.83 m) per second for suction piping and not to exceed 10 feet (2.44 m) per second for discharge piping except for copper pipe where the velocity shall not exceed eight feet per second. Piping shall be of non-toxic material, resistant to corrosion, and able to withstand operating pressures. If plastic pipe is used, a minimum of Schedule 40 PVC shall be required except that flexible PVC hoses which meet NSF Standard Number 50 shall be allowed. Exposed pipes and valves shall be identified by a color code or labels.
- (f) The circulation system shall include a strainer to prevent hair, lint, and other debris from reaching the pump. A spare basket shall be provided. Strainers shall be corrosion-resistant with openings not more than 1/4 inch (6.4 mm) in size which shall provide a free flow area at least four times the cross-section area of pump suction line and shall be accessible for daily cleaning.

(g) A vacuum cleaning system shall be provided to remove debris and foreign material which settles to the bottom of the swimming pool. Pools with more than two skimmers shall be provided with a vacuum cleaning system which is an integral

part of the circulation system. Connections shall be located at intervals sufficient to reach the entire pool with a 50 foot hose. Skimmer vacuums may be used in pools with two or fewer skimmers provided the skimmer basket remains in place while the vacuum is in operation. The vacuum cleaning system shall be provided with valves and protective caps.

(h) A rate-of-flow indicator, reading in liters or gallons per minute, shall be installed on the filtered water line and located so that the rate of circulation is indicated. The indicator shall be capable of measuring flows which are at least 1 1/2 times the design flow rate, shall be accurate within 10 per cent of true flow, and shall be easy to read. The indicator shall be installed in accordance with manufacturers' specifications.

(i) A pump or pumps shall be provided with adequate capacity to recirculate the swimming pool water four times in 24 hours, and shall be so located as to eliminate the need for priming. If the pump or pumps, or suction piping is located above the overflow level of the pool, the pump or pumps shall be self-priming. The pump or pumps shall be capable of providing a flow adequate for the backwashing of filters. Unless headloss calculations are provided by the designing engineer, pump design shall be based on an assumed total dynamic head of 65 feet of water. Pumps three horsepower or smaller shall be National Sanitation Foundation (NSF) listed or verified by an independent third-party testing laboratory to meet all applicable provisions of NSF Standard Number 50. Verification shall include testing and in-plant quality control inspections. Larger pumps for which NSF listing is not available shall be approved on a case-by-case basis.

(j) Inlets.

- (1) Inlets shall be provided and arranged to produce a uniform circulation of water and maintain a uniform disinfectant residual throughout the pool.
- (2) The number of inlets for any swimming pool with a surface area of 2,000 square feet (186 sq m), or less, will be determined based on return water flow. Flow rates (in gallons per minute) through various sized inlet branches shall not exceed those listed in Table 2 of this Rule. There shall be a minimum of four inlets for any swimming pool. For any pool with a surface area greater than 2,000 square feet (186 sq m), the number of inlets shall be based on one inlet per 15 feet of perimeter or portion thereof.

Table 2

Inside Pipe Diameter	GPM
1 inch	10

1¼ inches	20
1½ inches	30
2 inches	50

- (3) When wall inlets are used, they shall be equally spaced around the perimeter. When floor inlets are used, they shall be spaced throughout the pool to accomplish a uniform recirculation.
- (4) Provision shall be made to permit adjustment of the flow through each inlet, either with an adjustable orifice or provided with replaceable orifices to permit adjustments of the flows.

(k) Drains.

- (1) Swimming pools shall be provided with at least two main drain outlets which shall be located at the deepest section of the pool and connected by "T" piping. Connecting piping shall be sized and configured such that blocking any one drain will not result in flow through the remaining drains or pipes exceeding a velocity of six feet per second while handling 50 percent of the design flow rate. The drains shall be capable of permitting the pool to be emptied completely. Drains shall be spaced not more than 30 feet (9.1 m) apart, and not more than 15 feet (4.6 m) away from the side walls.
- (2) Other systems which require suction outlets shall be provided with two drains with "T" connection pipe. This provision does not apply to capped vacuum outlets.
- (3) Outlet drain gratings shall have a total area of at least four times the area of the discharge pipe and shall be designed so as not to be readily removed by or create any hazard to bathers.
- (4) The outlet grate open area shall be such that when maximum flow of water is being pumped through the floor outlet, the velocity through the open grate shall not be greater than one and one-half feet per second. Outlet gratings shall be anchored and openings in gratings shall be slotted and the maximum dimension of slots shall not be more than one-half inch. Where outlet fittings consist of parallel plates, of the anti-vortex type where the water enters the fittings from the sides, rather than through a grating facing upward, entrance velocities may be increased to six feet per second.

(l) Surface Overflow Systems.

- (1) Swimming pools shall be provided with a surface overflow system which shall be an integral part of the circulation system and which shall consist of a built-in-place perimeter overflow system, a pre-fabricated perimeter overflow system, or recessed automatic surface skimmers.
- (2) Whenever a built-in-place perimeter overflow system or a pre-fabricated perimeter overflow system is provided, it shall be designed and installed as follows:
 - (A) The system shall be capable of handling 50 percent of the circulation flow without the

overflow troughs being flooded for any appreciable period of time;

- (B) A surge capacity shall be provided either in the system or by use of a surge tank; and the total surge capacity shall be at least equal to one gallon per square foot (41L per square meter) of swimming pool water surface area;
 - (C) The water level of the swimming pool shall be maintained at, or slightly higher than, the level of the overflow rim of the perimeter overflows, except for the time needed to transfer all of the water which may be in the surge capacity back into the swimming pool after a period of use; provided that this transfer time shall not be greater than 20 minutes;
 - (D) When installed the tolerance of the overflow rim shall not exceed 1/4 inch (6.4 mm) as measured between the highest point and the lowest point of the overflow rim;
 - (E) During quiescence, the overflow system shall be capable of providing continuously and automatically a skimming action to the water at the surface of the swimming pool;
 - (F) The overflow troughs shall be installed completely around the perimeter of the swimming pool, except at steps, recessed ladders and stairs;
 - (G) The exposed surfaces of the overflow trough shall be capable of providing a firm and safe hand-hold; and
 - (H) The overflow trough shall be cleanable and shall be of such configuration as to minimize accidental injury.
- (3) Whenever a recessed automatic surface skimmer or skimmers are installed, they shall be designed and constructed in accordance with Section 8 of the National Sanitation Foundation's Standard #50 for circulation system components for swimming pools, spas, or hot tubs, which is hereby incorporated by reference including any subsequent amendments and editions. This material is available for inspection at the Department of Environment, Health, and Natural Resources, Division of Environmental Health, 1330 St. Mary's Street, 2728 Capital Boulevard, Raleigh, North Carolina. Copies may be obtained from the ~~National Sanitation Foundation~~, NSF International, 3475 Plymouth Road, P.O. Box 1468, 130140, Ann Arbor, Michigan 48106 48113-0140 at no cost a cost of seventy dollars (\$70.00). Recessed automatic surface skimmers shall be installed as follows:
- (A) The flow-through rate through any one recessed automatic surface skimmer shall be between 20 and 30 gallons per minute. Piping shall be sized to allow a flow of 30 gallons per minute for each skimmer;

- (B) There shall be at least one recessed automatic surface skimmer for each 400 square feet (46 sq. m) of water surface area of the swimming pool or fraction thereof.
- (C) When two or more recessed automatic surface skimmers are required, they shall be so located as to minimize interference with each other and as to insure proper and complete skimming of the entire swimming pools water surface.
- (D) Skimmers shall not protrude into the swimming pool. Automatic surface skimmer or skimmers without a perimeter overflow system, shall be installed so that the operating level of the pool is no more than nine inches below the finished deck level so that the deck can be used as a handhold.

(m) Where flooded suction on the pump is not possible to prevent cavitation and loss of prime, skimmers shall have a device or other protection to prevent air entrainment in the suction line. The inlet to the equalizer line shall be provided with a grate.

(n) Nothing in this Section shall preclude the use of a roll-out or deck-level type of swimming pool. Such designs shall conform to the general provisions relating to surface overflow systems. The design of the curb and handhold shall be approved by the Department based on detailed review of this feature of construction and evaluated in the light of proposed use of the swimming pool.

(o) Nothing in this Section shall preclude the use of a surface overflow system which combines both a perimeter overflow system and a recessed automatic surface skimmer or skimmers.

Authority G.S. 130A-282.

.2522 DECKS

(a) Outdoor swimming pools shall have a continuous deck extending completely around the swimming pool. The width of the deck or walkway shall provide at least six feet of clear walking space at all points. If the swimming area of the pool is 1600 square feet or larger, at least eight feet of clear walking space is required.

(b) Indoor swimming pools shall have a continuous deck or walkway extending completely around the swimming pool. The width of the deck shall provide at least five feet of clear walking space at all points.

(c) Wading pools shall have a continuous deck extending completely around the wading pool. The width of the deck or walkway shall provide at least four feet of clear walking space at all points.

(d) Spas shall have a continuous deck extending at least one-half way around the spa. The width of the deck or walkway shall provide at least four feet of clear walking space at all points.

(e) Whenever a diving board or slide is installed on a swimming pool, there shall be at least five feet (1.52 m) of unobstructed deck behind the diving board or slide.

(f) All deck areas and walkways shall be sloped at a grade of $\frac{1}{4}$ inch to $\frac{1}{2}$ inch per foot to a deck drain or sheet drain to deck edge. Deck drains shall not be connected to the circulation system in any manner.

(g) All decks and walkways shall have a slip-resistant, impervious surface; except that non-porous resilient artificial recreational surfaces may be used if approved by the Department.

(h) Sufficient hose bibs shall be provided to allow all areas of the deck to be reached with a 100 foot hose.

(i) Special purpose pools such as waterslides and wave pools may vary from the minimum deck area requirements to the extent necessary to accommodate the special features of the pool.

(j) Special structures necessary to provide access to a public swimming pool by persons with disabilities shall be allowed to vary from the provisions of this Section to the extent necessary to accommodate such access. Such structures shall be approved on a case-by-case basis and shall be designed so as to minimize obstruction of the deck.

(k) All decks shall be continuous with the top of the pool wall or gutter and shall not be more than nine inches above the standard operating water level.

Authority G.S. 130A-282.

.2526 DRESSING AND SANITARY FACILITIES

(a) Dressing and sanitary facilities shall be provided at all pools, except for pools at hotels, motels, condominiums, and apartments where pool use is restricted to residents or guests. At hotels, motels, condominiums and apartments where the farthest unit is more than 300 feet from the pool, as measured along walkways provided for access by residents or guests to the pool area, ~~toilets~~ a toilet shall be provided.

(b) Partitions shall be of durable material, not subject to damage by water and shall be designed so that a waterway is provided between partitions and floor to permit thorough cleaning of the walls and floor areas with hoses and brooms.

(c) Floors of the dressing facility shall be continuous throughout the areas. Floors shall have a slip-resistant surface that shall be relatively smooth, to insure complete cleaning. Floor drains shall be provided, and floors shall be sloped not less than $\frac{1}{4}$ inch per foot toward the drains to insure positive drainage.

(d) Hose bibs shall be provided such that all parts of the dressing facility interior can be reached with a 50 foot hose.

(e) The minimum criteria for dressing and sanitary facilities shall be based upon the maximum bather load.

(f) One water closet, one lavatory, and one urinal shall be provided for the first 100 male users. One additional water closet, lavatory, and urinal shall be provided for each additional 200 male users or major fraction thereof. thereof up to a total of 500 users. Where user load exceeds 500 male users, two additional water closets or urinals and one lavatory shall be provided for each additional 500 male users. Where the maximum bather load includes less than 50 male users, one water closet and one lavatory will be sufficient.

(g) Two water closets and two lavatories shall be provided

for the first 100 female users. One additional water closet and lavatory shall be provided for each additional 100 female users or major fraction thereof. thereof up to a total of 500 users. Where user load exceeds 500 female users, two additional water closets and one lavatory shall be provided for each additional 500 female users. Where the maximum bather load includes less than 50 female users, one water closet and one lavatory will be sufficient.

(h) ~~Showers shall be provided in the proportion of one for each 100 persons at the time of maximum bather load. At least one shower shall be provided.~~

(i) The water heater shall be inaccessible to users. The system shall be designed such that water temperature at the shower heads and lavatories cannot exceed 110° Fahrenheit.

(j) Soap dispensers for providing either liquid or powdered soap shall be provided at each lavatory or inside shower. The dispenser shall be of all metal or plastic type, with no glass permitted in these units.

(k) If mirrors are provided, they shall be of shatterproof materials.

(l) Toilet paper holders shall be provided at each water closet combination.

Authority G.S. 130A-282.

.2528 FENCES

Swimming pools shall be protected by a fence, wall, building, or other enclosure, or any combination thereof, which completely encloses the swimming pool area such that all of the following conditions are met:

- (1) Constructed so as to afford no external handholds or footholds. However, the use of wire mesh fences with a mesh size of 2¼ inches or less is permitted;
- (2) A four foot (1.22 m) minimum height (from the outside approach) is provided entirely around the swimming pool;
- (3) The horizontal space between vertical members of the enclosure shall not exceed four inches: where the horizontal space between vertical members exceeds 1 3/4 inches there shall be at least 30 45 inches between any horizontal bottom rails or stringers and the next horizontal rails or stringers;
- (4) The height of any opening under the bottom of the enclosure shall not exceed four inches (10 cm);
- (5) Openings under and through a fringe or barrier with the gate(s) closed shall be sized so that a 4½ inch diameter sphere cannot be passed through the openings;
- (6) All gates and doors shall be equipped with self-closing and positive self-latching closure mechanisms and shall be equipped with locking devices. Gates provided to allow bathers access to the pool shall be located so as to open to the pool at a point where the water is less than five feet deep. On pools built after May 1, 1996, access gates shall open away from the pool except when natural topography or other conditions dictate that it open inward. Release of the latch on the self-latching

device shall be activated:

- (a) at a height no less than 54 inches above grade for wire mesh access gates and at a height no less than 54 inches above the horizontal bottom rail of a picket/ornamental access gate; or
- (b) on the pool side of the gate at a distance of no less than three inches below the top of the ~~gate. gate provided there is no opening greater than one-half inch within 18 inches of where the latch release is activated when the gate is closed.~~
- (7) Gates provided specifically for access to equipment rooms shall be locked at all times when not in use by the pool operator;
- (8) Ground level doors and windows opening inside the pool enclosure must be self-closing or child protected; and
- (9) Self-closing, self-latching gates shall not be required for gates which are kept locked, or for entrances where access is controlled by a gate attendant and a lifeguard is on duty in the pool area.

Authority G.S. 130A-282.

.2530 SAFETY PROVISIONS

(a) Swimming pools shall have lifesaving equipment conspicuously and conveniently on hand at all times. A unit of lifesaving equipment shall include the following:

- (1) A light, strong pole not less than 12 feet long, including a body hook.
- (2) A minimum ¼ inch diameter throwing rope as long as one and one-half times the maximum width of the pool or 50 feet, whichever is less, to which has been firmly attached a U.S. Coast Guard approved ring buoy. A rescue tube or rescue can shall be accepted as a substitute for the ring buoy where it is accompanied by a lifeguard who has been trained to use it properly.

(b) Two units of lifesaving equipment must be provided for any pool which exceeds 3,000 square feet (186 sq m) of total surface area.

(c) When a swimming pool does not have at least one lifeguard on duty, a sign shall be posted which has clearly legible letters of at least four inches (10 cm) in height stating: "WARNING-NO LIFEGUARD ON DUTY." In addition there shall be signs stating: "CHILDREN SHOULD NOT USE THE SWIMMING POOL WITHOUT ADULT SUPERVISION", and: "ADULTS SHOULD NOT SWIM ALONE". Wading pools which do not have a lifeguard inside the wading pool enclosure shall have a sign posted stating "WARNING NO LIFEGUARD ON DUTY". Such signs shall be mounted permanently.

(d) A sign prohibiting pets and glass containers in the pool area shall be provided.

(e) A telephone capable of directly dialing 911 or other emergency notification system shall be provided and accessible to all pool users within 300 feet of the pool.

Authority G.S. 130A-282.

.2531 WADING POOLS

Wading pools shall meet all design specifications for swimming pools and wading pools included in Rules .2512-.2530 of this Section with the following exceptions:

- (1) Wading pools shall be physically separate from other public swimming pools except that a fill pipe and valve from a swimming pool recirculation system can be used to introduce water to a wading pool.
- (2) Every wading pool shall be equipped with a circulation system which is separate from, and independent of, the circulation system of the swimming pool. Such circulation system shall at least consist of a circulating pump, piping, a filter, a rate-of-flow meter, a disinfectant feeder, two inlets, two main drains with "T" connecting piping, and one automatic surface skimmer. Individual components of a wading pool system must meet the criteria of Rule .2518 of this Section.
- (3) The capacity of the circulation system shall be capable of filtering and disinfecting the entire volume of water in the wading pool 12 times in every 24 hours.
- (4) Wading pools shall be equipped with main drains located at the deepest point of the wading pool and covered by gratings which meet the requirements of Rule .2518(k) of this Section.
- (5) Wading pools shall be equipped with a surface overflow system capable of removing floating material.
- (6) Wading pools shall not be deeper than 24 inches (61 cm) at the deepest point.
- (7) Wading pools' floor slope shall not exceed one foot in 12 feet.
- (8) Wading pools shall be located in the vicinity of the shallow end of the swimming pool, and shall be separated from the swimming pool by a fence or structure similar to that described in Rule .2528 of this Section, ~~with an enclosure of at least three feet high~~ which shall be equipped with self-closing and positive self-latching closure mechanisms, and shall be equipped with permanent locking devices.
- (9) Wading pools shall be designed to provide at least 10 square feet per child.
- (10) Depth markers shall not be required at wading pools.

Authority G.S. 130A-282.

.2532 SPAS AND HOT TUBS

Spas and hot tubs shall meet all design specifications for swimming pools and wading pools included in Rules .2512-.2530 of this Section with the following exceptions:

- (1) The circulation system equipment shall provide a turnover rate for the entire water capacity at least once every 30 minutes.

- (2) The arrangement of water inlets and outlets shall produce a uniform circulation of water so as to maintain a uniform disinfectant residual throughout the spa.
- (3) A minimum of two inlets shall be provided with inlets added as necessary to maintain required flowrate.
- (4) Water outlets shall be designed so that each pumping system in the spa (filter systems or booster systems if so equipped) provides the following:
 - (a) Two drains connected by "T" piping. Connecting piping shall be of the same diameter as the main drain outlet. Filter system drains shall be capable of emptying the spa completely. Drains shall be installed at least ~~six inches apart~~, three feet apart or located on two different planes of the pool structure.
 - (b) Filtration systems shall provide at least one surface skimmer per 100 square feet, or fraction thereof of surface area.
- (5) The water velocity in spa or hot tub discharge piping shall not exceed 10 feet per second (3.05 m second); except for copper pipe where water velocity shall not exceed eight feet per second (2.44 m second). Suction water velocity in any piping shall not exceed six feet per second (1.83 m/second).
- (6) Spa recirculation systems shall be separate from companion swimming pools.
 - (a) Where a two-pump system is used, one pump shall provide the required turnover rate, filtration and disinfection for the spa water. The other pump shall provide water or air for hydrotherapy turbulence without interfering with the operation of the recirculation system. The timer switch will activate only the hydrotherapy pump.
 - (b) Where a single two-speed pump is used, the pump shall be designed and installed to provide the required turnover rate for filtration and disinfection of the spa water at all times without exceeding the maximum filtration rates specified in Rule .2519 of this Section. The timer switch shall activate only the hydrotherapy portion of the pump.
 - (c) Where a single one-speed pump is used, a timer switch shall not be provided.
- (7) A timer switch shall be provided for the hydrotherapy turbulence system with a maximum of 15 minutes on the timer. The switch shall be placed such that bathers must leave the spa to reach the switch.
- (8) The maximum operational water depth shall be four feet (1.22 m) measured from the water line.
- (9) The maximum depth of any seat or sitting bench shall be two feet (61 cm) measured from the waterline.

- (10) A minimum height between the top of the spa/hot tub rim and the ceiling shall be 7½ feet.
 - (11) Depth markers shall not be required at spas.
 - (12) Steps, step-seats, ladders or recessed treads shall be provided where spa and hot tub depths are greater than 24 inches (61 cm).
 - (13) Contrasting color bands or lines shall be used to indicate the leading edge of step treads, seats, and benches.
 - (14) A spa or hot tub shall be equipped with at least one handrail (or ladder equivalent) for each 50 feet (15.2 m) of perimeter, or portion thereof, to designate points of entry and exit.
 - (15) Where water temperature exceeds 90° Fahrenheit (32° C), a caution sign shall be mounted adjacent to the entrance to the spa or hot tub. It shall contain the following warnings in letters at least ½ inch in height:
 - (a) CAUTION:
 - (b) -Pregnant women; elderly persons, and persons suffering from heart disease, diabetes, or high or low blood pressure should not enter the spa/hot tub without prior medical consultation and permission from their doctor;
 - (c) -Do not use the spa/hot tub while under the influence of alcohol, tranquilizers, or other drugs that cause drowsiness or that raise or lower blood pressure;
 - (d) -Do not use alone;
 - (e) -Unsupervised use by children is prohibited;
 - (f) -Enter and exit slowly;
 - (g) -Observe reasonable time limits (that is, 10-15 minutes), then leave the water and cool down before returning for another brief stay;
 - (h) -Long exposure may result in nausea, dizziness, or fainting;
 - (i) -Keep all breakable objects out of the area.
 - (16) A sign shall be posted in the immediate vicinity of the spa or hot tub stating the location of the nearest telephone and indicating that emergency telephone numbers are posted at that location. Those emergency telephone numbers shall include the name and telephone number of the nearest available police, fire or rescue unit, physician, ambulance service, or hospital.
 - (17) A sign shall also be posted requiring a shower for each user prior to entering the spa or hot tub and prohibiting oils, body lotion, and minerals in the water.
- (2) The clarity of the water shall be maintained such that the main drain grate is readily visible from the pool deck at all times.
 - (3) Disinfection shall be provided in accordance with manufacturers' instructions for all pools by a chemical or other process that meets the criteria listed as follows:
 - (a) registered with the U.S. Environmental Protection Agency for pool water or potable water;
 - (b) provides a residual effect in the pool water which can be measured by simple portable field test equipment;
 - (c) will not impart any immediate or cumulative adverse physiological effects to pool bathers when used as directed;
 - (d) will not produce any undue safety hazard when stored or used as directed;
 - (e) will not damage or cause excessive wear of pool components or equipment;
 - (f) will demonstrate reduction of total coliform and fecal coliform to a level at least equivalent to free chlorine at a level of one part per million in the same body of water.
 - (4) When chlorine is used as the disinfectant, a free chlorine residual of at least one part per million (ppm) shall be maintained throughout the pool whenever it is open or in use. Pools which use chlorine as the disinfectant must be stabilized with cyanuric acid except at indoor pools or where it can be shown that cyanuric acid is not necessary to maintain a stable free chlorine residual.
 - (5) When bromine or compounds of bromine are used as the disinfectant, a free bromine residual of at least two parts per million, shall be maintained throughout the pool whenever it is open or in use.
 - (6) ~~Automatic chemical feeders that are NSF listed shall be used when chlorine, bromine, or compounds of bromine are used as a disinfectant. Feeders shall be manufactured and installed in accordance with NSF standard number 50 which is incorporated by reference including any subsequent amendments and editions. This material is available for inspection at the Department of Environment, Health, and Natural Resources, Division of Environmental Health, 1330 St. Mary's Street, Raleigh, North Carolina. Copies may be obtained from the National Sanitation Foundation, P.O. Box 130140, Ann Arbor, Michigan 48113-0140 at a cost of forty-five dollars (\$45.00). When chlorine or bromine are used as the disinfectant, automatic chemical feeders which meet NSF Standard Number 50 shall be used.~~
 - (7) When biguanide is used as the disinfectant, a residual of 30 to 50 parts per million shall be maintained throughout the pool whenever it is open

Authority G.S. 130A-282.

.2535 WATER QUALITY STANDARDS

Water quality shall be maintained in accordance with the following:

- (1) The chemical quality of the water shall be

- or in use.
- (8) When silver/copper ion systems are used, the copper concentration in the pool water shall not exceed one part per million and a chlorine residual must be maintained in accordance with Paragraph (4) of this Rule.
- (9) The use of chlorine in its elemental (gaseous) form for disinfection of public swimming pools is prohibited.
- (10) Test kits or equipment capable of measuring disinfectant level and pH must be maintained at all public swimming pools.
- (11) The pool operator shall maintain written records of the operating conditions of each pool. Records shall be maintained at the pool site for a period of not less than six months. Records shall include the following:
 - (a) daily recording of the disinfectant residual in the pool;
 - (b) daily recording of pool water pH;
 - (c) daily recording of water temperature in heated pools; and
 - (d) recording of activities pertaining to pool water maintenance including chemical additions and filter backwash cycles.
- (12) Water temperature in heated swimming pools shall not exceed 90° Fahrenheit (32°C) and in heated spas shall not exceed 104° Fahrenheit (40°C).

Authority G.S. 130A-282.

.2537 MAINTENANCE AND OPERATION

(a) All public swimming pools constructed or remodeled on or after May 1, 1991 shall be maintained and operated in accordance with the Rules of this Section.

(b) On or after May 1, 1993 all public swimming pools including those constructed prior to May 1, 1991 shall be maintained and operated in accordance with the following:

- (1) All safety provisions of Rule .2530(a) and (b) of this Section shall be met.
- (2) Decks shall be structurally sound and shall be maintained free of trip hazards or offsets greater than one-half inch resulting from deterioration or changes from the original deck profile.
- (3) There shall be no loose coping.
- (4) Artificial lighting shall be provided for all pools used when natural lighting is not sufficient to make all parts of the pool and pool area clearly visible.
- (5) Swimming pools shall be protected by a fence, wall, building, or other enclosure, or any combination thereof, which completely encloses the swimming pool area. area to a height of at least 48 inches and is capable of preventing small children from entering the pool area. All gates and doors shall be equipped with self-closing and positive self-latching closure mechanisms. Existing waterslide flumes and other appurtenances are not required to be located inside the fence.

- (6) Depth markings shall be provided.
- (7) Drain covers shall be in good condition and securely attached.
- (8) Damaged face plates or fittings shall be repaired or replaced.
- (9) Underwater light niches shall be maintained or covered so as not to present a potential hazard to bathers.
- (10) Diving equipment and pool slides including stairs and railing shall be maintained in good working order.
- (11) A timer switch which allows no more than 15 minutes of operation without manual resetting shall be used to control air blowers and hydrotherapy pumps on heated spas.
- (12) All breaks in grade of the pool bottom including the leading edges of stair treads and seats and the tops of breakpoints where the slope of the bottom changes at a depth of five feet (15m) or less shall be marked with a contrasting color band by May 1, 2000. Contrasting color bands shall not be required where a registered engineer, registered architect or licensed swimming pool contractor certifies in writing that structural weakness or materials of construction prevent the installation of permanent markings.
- (13) On or after May 1, 1996 all heated spas shall post a caution sign as specified in Rule .2532 of this Section.
- (14) Pool maintenance shall include removal of debris from the water surface and bottom of the pool.
- (15) All pool chemicals shall be stored in a clean, dry, well ventilated area and shall be organized so as to prevent chemicals from reacting.
- (16) No submersible pumps or mechanical pool cleaning equipment shall be placed or used in the pool while bathers are in the pool.

(c) The owner of a public swimming pool shall provide for the operation of the pool by a person or persons who shall be responsible to the owner for operation, maintenance, pool safety and recordkeeping. On or after January 1, 1999 public swimming pool operators shall have successfully completed a Certified Pool Spa Operator course sanctioned by the National Swimming Pool Foundation, 10803 Gulfdale, Suite 300, San Antonio, Texas 78216, or a course of instruction approved by the department.

Authority G.S. 130A-282.

.2539 SUCTION HAZARD REDUCTION

(a) At all public wading pools which use a single main drain for circulation of water, signs shall be posted stating: "WARNING To prevent serious injury do not allow children in wading pool if drain cover is broken or missing". Signs shall be in letters at least one-half inch in height and shall be posted where they are visible to people entering the wading pool. No public swimming pool shall operate with a single drain as the only outlet to any pump. Where flow from a

single drain is balanced with flow from a surface skimmer the skimmer valve shall be kept in the open position and secured against tampering.

(b) Operators of all public wading pools shall inspect pools daily to ensure the drain covers are in good condition and securely attached.

Authority G.S. 130A-282.

.2543 WATER RECREATION ATTRACTIONS

(a) Water recreation attractions including water slides, wave pools, rapid rides, lazy rivers, children's activity pools and other similar features can deviate from the requirements of this Section with respect to pool profile, depth, freeboard, flow dynamics and surface skimming systems. The designing engineer or equipment manufacturer shall provide the Department with information to justify such deviation as necessary for the proper function of the attraction. Water recreation attractions shall meet all other requirements of this Section.

(b) Water slide landing pools with a capacity of less than 60,000 gallons shall have a circulation and filtration system capable of turning over the entire pool capacity every two hours. Where automatic chemical controllers are used the turnover time shall be no more than three hours. Landing pool dimensions shall be consistent with the slide manufacturer's recommendation.

(c) When waterfalls are incorporated in water recreation attractions, they shall be constructed with no handholds or footholds to a height of four feet to discourage climbing.

Authority G.S. 130A-282.

TITLE 19A - DEPARTMENT OF TRANSPORTATION

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Department of Transportation - Division of Highways intends to amend rule cited as 19A NCAC 2D .0816. Notice of Rule-making Proceedings was published in the Register on April 1, 1998.

Proposed Effective Date: April 1, 1999

Instructions on How to Demand a Public Hearing: A demand for a public hearing must be made in writing and mailed to Emily Lee, N.C. DOT, PO Box 25201, Raleigh, NC 27611. The demand must be received within 15 days of this Notice.

Reason for Proposed Action: Several proposed amendments strengthen the Department's ability to disqualify firms from bidding on DOT contracts. One proposed amendment ensures there is no conflict of interest between current DOT employees and private firms doing business with DOT.

Comment Procedures: Any interested person may submit written comments on the proposed rule by mailing the comments to Emily Lee, NC DOT, PO Box 25201, Raleigh, NC 27611, by July 31, 1998.

Fiscal Note: This Rule does not affect the expenditures or revenues of state or local government funds. This Rule does not have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period.

CHAPTER 2 - DIVISION OF HIGHWAYS

SUBCHAPTER 2D - HIGHWAY OPERATIONS

SECTION .0800 - PREQUALIFICATION: ADVERTISING AND BIDDING REGULATIONS

.0816 DISQUALIFICATION OF BIDDERS

(a) The Department may disqualify a contractor from further bidding until he has applied for and has been requalified in accordance with Rule .0801 of this Section for any of the following reasons:

- (1) unsatisfactory progress in accordance with the terms and conditions of existing or previous contracts as specified in Article 108-8 or Article 105-7 of the Standard Specifications for Roads and Structures.
- (2) ~~being declared in default in accordance with Article 108-9 of the Standard Specifications for Roads and Structures.~~
- (3)(2) uncompleted contracts which, in the judgment of the Chief Engineer, may hinder or prevent the timely completion of additional work if awarded.
- (4) ~~failure to comply with prequalification requirements.~~
- (5) ~~the submission of more than one bid for the same contract by an individual, partnership, joint venture, or corporation prequalified under the same Prequalification Number.~~
- (6) ~~evidence of collusion among bidders; each participant in such collusion will be disqualified.~~
- (7) ~~failure to furnish a non-collusion affidavit upon request.~~
- (8)(3) failure to comply with Article 108-6 of the Standard Specifications for Roads and Structures.
- (9) ~~failure to comply with a written order of the Engineer as provided in Article 105-1 of the Standard Specifications for Roads and Structures or oral directives given by the Department's project personnel, if in the judgment of the Chief Engineer such failure is of sufficient magnitude to warrant disqualification.~~
- (10)(4) failure to satisfy the Disadvantaged Business Enterprise requirements of the project special provisions.

- ~~(11) the Department has not received the amount due under a forfeited bid bond or under the terms of a performance bond.~~
- ~~(12)(5)~~ failure to submit the documents required by Article 109-9 of the Standard Specifications for Roads and Structures within 60 days after being requested by the Engineer, or the submission of false information.
- ~~(13) failure to return overpayments as directed by the Engineer.~~
- ~~(6) recruitment of Department employees for employment.~~
- (b) The Department shall disqualify a contractor from further bidding until he has applied for and has been requalified in accordance with Rule .0801 of this Section for any of the following reasons:
 - (1) being declared in default in accordance with Article 108-9 of the Standard Specifications for Roads and Structures.
 - (2) failure to comply with prequalification requirements.
 - (3) the submission of more than one bid for the same contract by an individual, partnership, joint venture, or corporation prequalified under the same

- Prequalification Number.
- (4) evidence of collusion among bidders: each participant in such collusion shall be disqualified.
- (5) failure to furnish a non-collusion affidavit upon request.
- (6) failure to comply with a written order of the Engineer as provided in Article 105-1 of the Standard Specifications for Roads and Structures or oral directives given by the Department's project personnel, if in the judgment of the Chief Engineer-Operations such failure is of sufficient magnitude to warrant disqualification.
- (7) the Department has not received the amount due under a forfeited bid bond or under the terms of a performance bond.
- (8) failure to return overpayments as directed by the Engineer.
- ~~(b)(c)~~ Upon a determination that a contractor should be disqualified for one or more of the reasons listed in Paragraph (a) or (b) of this Rule, the Department may remove all entities prequalified under the same Prequalification Number.

Authority G.S. 136-18(1); 136-28.1.

*This Section includes the Register Notice citation to Rules approved by the Rules Review Commission (RRC) at its meeting of April 20, 1998 pursuant to G.S. 150B-21.17(a)(1) and reported to the Joint Legislative Administrative Procedure Oversight Committee pursuant to G.S. 150B-21.16. The full text of rules are published below when the rules have been approved by RRC in a form different from that originally noticed in the Register or when no notice was required to be published in the Register. The rules published in full text are identified by an * in the listing of approved rules. Statutory Reference: G.S. 150B-21.17.*

These rules unless otherwise noted, will become effective on the 31st legislative day of the 1998 Short Session of the General Assembly or a later date if specified by the agency unless a bill is introduced before the 31st legislative day that specifically disapproves the rule. If a bill to disapprove a rule is not ratified, the rule will become effective either on the day the bill receives an unfavorable final action or the day the General Assembly adjourns. Statutory reference: G.S. 150B-21.3.

APPROVED RULE CITATION				REGISTER CITATION TO THE NOTICE OF TEXT
02	NCAC	34	.0102*	12:14 NCR 1234
02	NCAC	34	.0302 - .0303*	12:14 NCR 1237
02	NCAC	34	.0306*	12:14 NCR 1239
02	NCAC	34	.0308 - .0309*	12:14 NCR 1239
02	NCAC	34	.0312	12:14 NCR 1240
02	NCAC	34	.0313*	12:14 NCR 1240
02	NCAC	34	.0323	12:14 NCR 1241
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02	NCAC	34	.0402	12:14 NCR 1242
02	NCAC	34	.0403*	12:14 NCR 1242
02	NCAC	34	.0406	12:14 NCR 1242
02	NCAC	34	.0501 - .0507*	12:14 NCR 1242
02	NCAC	34	.0508	12:14 NCR 1247
02	NCAC	34	.0602*	12:14 NCR 1247
02	NCAC	34	.0604 - .0605*	12:14 NCR 1248
02	NCAC	34	.0701*	12:14 NCR 1249
02	NCAC	34	.0703*	12:14 NCR 1250
02	NCAC	34	.0803*	12:14 NCR 1250
02	NCAC	34	.0902*	12:14 NCR 1251
02	NCAC	34	.0904*	12:14 NCR 1251
02	NCAC	34	.1101*	12:14 NCR 1252
07	NCAC	04R	.0909 - .0912*	12:13 NCR 1174
07	NCAC	04R	.0913	12:13 NCR 1174
07	NCAC	04R	.0914 - .0915*	12:13 NCR 1174
07	NCAC	05	.0203	12:16 NCR 1511
10	NCAC	03U	.0302*	12:13 NCR 1101
10	NCAC	03U	.0704*	12:13 NCR 1110
10	NCAC	03U	.0710*	12:13 NCR 1113
10	NCAC	03U	.0806*	12:13 NCR 1118
10	NCAC	03U	.1702*	12:13 NCR 1121
10	NCAC	03U	.1720*	12:13 NCR 1128
10	NCAC	26H	.0602	12:15 NCR 1419
11	NCAC	12	.1801 - .1802	12:15 NCR 1424
11	NCAC	12	.1803 - .1804*	12:15 NCR 1424
15A	NCAC	01J	.0401 - .0402	12:14 NCR 1266
15A	NCAC	02D	.0105* Amended Eff. May 1, 1998	not required. G.S. 150B-21.5
15A	NCAC	02D	.0535*	12:08 NCR 0650
15A	NCAC	02D	.0927	12:08 NCR 0652
15A	NCAC	02D	.1102	12:08 NCR 0653
15A	NCAC	02D	.1103 - .1104*	12:08 NCR 0653

15A	NCAC	02D	.1106*	12:08 NCR 0658
15A	NCAC	02D	.1201	12:08 NCR 0665
15A	NCAC	02D	.1205	12:08 NCR 0665
15A	NCAC	02Q	.0101 - .0102	12:08 NCR 0674
15A	NCAC	02Q	.0301	12:08 NCR 0679
15A	NCAC	02Q	.0501	12:08 NCR 0683
15A	NCAC	02Q	.0701 - .0702*	12:08 NCR 0684
15A	NCAC	02Q	.0703 - .0704	12:08 NCR 0686
15A	NCAC	02Q	.0705*	12:08 NCR 0687
15A	NCAC	02Q	.0706	12:08 NCR 0688
15A	NCAC	02Q	.0707 - .0709*	12:08 NCR 0689
15A	NCAC	02Q	.0710 - .0713	12:08 NCR 0690
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15A	NCAC	02R	.0401 - .0403*	12:14 NCR 1269
15A	NCAC	02R	.0501 - .0504	12:14 NCR 1271
15A	NCAC	03J	.0202*	12:12 NCR 1003
15A	NCAC	03M	.0513	12:12 NCR 1003
15A	NCAC	07H	.1601	11:27 NCR 2071
15A	NCAC	07H	.1604*	11:27 NCR 2071
15A	NCAC	07H	.1605	11:27 NCR 2071
15A	NCAC	10B	.0113*	12:12 NCR 1004
15A	NCAC	10B	.0202 - .0203*	12:12 NCR 1004
15A	NCAC	10B	.0209*	12:12 NCR 1004
15A	NCAC	10B	.0216*	12:12 NCR 1004
15A	NCAC	10C	.0203*	12:12 NCR 1010
15A	NCAC	10C	.0205*	12:12 NCR 1010
15A	NCAC	10C	.0212	12:12 NCR 1010
15A	NCAC	10C	.0304	12:12 NCR 1010
15A	NCAC	10C	.0401*	12:12 NCR 1010
15A	NCAC	10C	.0402	12:12 NCR 1010
15A	NCAC	10C	.0407	12:12 NCR 1010
15A	NCAC	10D	.0002 - .0004*	12:12 NCR 1029
15A	NCAC	10F	.0102 - .0103*	12:12 NCR 1039
15A	NCAC	10F	.0104 - .0105	12:12 NCR 1039
15A	NCAC	10F	.0109	12:12 NCR 1039
15A	NCAC	10F	.0345	12:12 NCR 1039
15A	NCAC	10F	.0347	12:12 NCR 1039
15A	NCAC	10G	.0402 - .0403	12:12 NCR 1044
15A	NCAC	10H	.0802*	12:13 NCR 1137
15A	NCAC	10H	.0810*	12:13 NCR 1137
16	NCAC	06C	.0602* Amended Eff. May 1, 1998	12:12 NCR 1050
16	NCAC	07	.0202*	12:07 NCR 0533
17	NCAC	05B	.1402* Repealed Eff. May 1, 1998	not required, G.S. 150B-21.5(a)
17	NCAC	05B	.1703* Repealed Eff. May 1, 1998	not required, G.S. 150B-21.5(a)
17	NCAC	05E	.0103	12:14 NCR 1286
18	NCAC	06	.1104*	12:14 NCR 1312
18	NCAC	06	.1206*	12:14 NCR 1314
18	NCAC	06	.1212*	12:14 NCR 1315
18	NCAC	06	.1401*	12:14 NCR 1316
18	NCAC	06	.1509*	12:14 NCR 1319
18	NCAC	06	.1702 - .1703*	12:14 NCR 1320
18	NCAC	06	.1705 - .1706*	12:14 NCR 1322
18	NCAC	06	.1805*	12:14 NCR 1333
18	NCAC	06	.1811*	12:14 NCR 1333
21	NCAC	02	.0213*	12:09 NCR 0795
21	NCAC	02	.0901 - .0910*	12:09 NCR 0796

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21	NCAC	08A	.0301*	12:13 NCR 1139
21	NCAC	08A	.0309*	12:13 NCR 1140
21	NCAC	08F	.0103*	12:13 NCR 1140
21	NCAC	08F	.0105	12:13 NCR 1142
21	NCAC	08F	.0302*	12:13 NCR 1142
21	NCAC	08F	.0401	12:13 NCR 1143
21	NCAC	08F	.0410	12:13 NCR 1143
21	NCAC	08G	.0404*	12:13 NCR 1143
21	NCAC	08H	.0001*	12:13 NCR 1145
21	NCAC	08I	.0004 - .0005	12:13 NCR 1145
21	NCAC	08J	.0001	12:13 NCR 1146
21	NCAC	08J	.0005 - .0006*	12:13 NCR 1147
21	NCAC	08J	.0008	12:13 NCR 1148
21	NCAC	08J	.0010*	12:13 NCR 1148
21	NCAC	08K	.0301	12:13 NCR 1148
21	NCAC	08M	.0101 - .0102*	12:13 NCR 1148
21	NCAC	08M	.0201*	12:13 NCR 1149
21	NCAC	08M	.0204*	12:13 NCR 1149
21	NCAC	12	.0204*	12:04 NCR 0292
21	NCAC	14H	.0005*	12:11 NCR 0925
21	NCAC	14J	.0501*	12:11 NCR 0925
21	NCAC	14K	.0003*	12:11 NCR 0925
21	NCAC	14N	.0102*	12:11 NCR 0925
21	NCAC	14N	.0107*	12:11 NCR 0925
21	NCAC	14N	.0113*	12:11 NCR 0925
21	NCAC	18B	.0107*Amended Eff. May 1, 1998	not required, G.S. 150B-21.5(a)(3)
21	NCAC	18B	.0209*Amended Eff. May 1, 1998	not required, G.S. 150B-21.5(a)(3)
21	NCAC	18B	.0404*Amended Eff. May 1, 1998	not required, G.S. 150B-21.5(a)(3)
21	NCAC	18B	.0802*Amended Eff. May 1, 1998	not required, G.S. 150B-21.5(a)(3)
21	NCAC	18B	.0904*Amended Eff. May 1, 1998	not required, G.S. 150B-21.5(a)(3)
21	NCAC	42E	.0102	12:12 NCR 1058
21	NCAC	46	.1414*Amended Eff. August 1, 1998	not required, G.S. 150B-21.5
21	NCAC	46	.1813*Amended Eff. August 1, 1998	not required, G.S. 150B-21.5
21	NCAC	46	.2611*Amended Eff. August 1, 1998	not required, G.S. 150B-21.5
21	NCAC	48A	.0103*	12:13 NCR 1150
21	NCAC	48A	.0105*	12:13 NCR 1151
21	NCAC	48C	.0401*	12:13 NCR 1153
21	NCAC	48D	.0102*	12:13 NCR 1153
21	NCAC	48D	.0105*	12:13 NCR 1154
21	NCAC	48D	.0112*	12:13 NCR 1154
21	NCAC	48F	.0102*	12:13 NCR 1155
21	NCAC	48G	.0203*	12:13 NCR 1156
21	NCAC	48G	.0404*	12:13 NCR 1156
21	NCAC	48G	.0601*	12:13 NCR 1157
21	NCAC	50	.0301	12:16 NCR 1490
21	NCAC	50	.0306	12:16 NCR 1490
21	NCAC	50	.0404 - .0405	12:16 NCR 1490
21	NCAC	50	.0510 - .0511	12:16 NCR 1490
21	NCAC	50	.1102	12:16 NCR 1490
21	NCAC	50	.1104	12:16 NCR 1490
21	NCAC	56	.0103*	12:16 NCR 1492
21	NCAC	56	.0104	12:16 NCR 1492
21	NCAC	56	.0401*	12:16 NCR 1492
21	NCAC	56	.0403*	12:16 NCR 1492
21	NCAC	56	.0404 - .0405	12:16 NCR 1492
21	NCAC	56	.0501 - .0503*	12:16 NCR 1492
21	NCAC	56	.0505*	12:16 NCR 1492
21	NCAC	56	.0601 - .0603*	12:16 NCR 1492

21	NCAC	56	.0606	12:16 NCR 1492
21	NCAC	56	.0701*	12:16 NCR 1492
21	NCAC	56	.0702	12:16 NCR 1492
21	NCAC	56	.0901*	12:16 NCR 1492
21	NCAC	56	.0902	12:16 NCR 1492
21	NCAC	56	.1102 - .1104*	12:16 NCR 1492
21	NCAC	56	.1105	12:16 NCR 1492
21	NCAC	56	.1106*	12:16 NCR 1492
21	NCAC	56	.1201*	12:16 NCR 1492
21	NCAC	56	.1203*	12:16 NCR 1492
21	NCAC	56	.1205*	12:16 NCR 1492
21	NCAC	56	.1301 - .1302*	12:16 NCR 1492
21	NCAC	56	.1403	12:16 NCR 1492
21	NCAC	56	.1409*	12:16 NCR 1492
21	NCAC	56	.1411*	12:16 NCR 1492
21	NCAC	56	.1602 - .1603*	12:16 NCR 1492
21	NCAC	56	.1604	12:16 NCR 1492
21	NCAC	56	.1703*	12:16 NCR 1492
21	NCAC	56	.1704 - .1705	12:16 NCR 1492
21	NCAC	56	.1711	12:16 NCR 1492
21	NCAC	68	.0101*	12:15 NCR 1426
21	NCAC	68	.0102*Amended Eff. August 1, 1998	not required, G.S. 150B-21.5(a)(2)
21	NCAC	68	.0301*	12:15 NCR 1426
21	NCAC	68	.0302	12:15 NCR 1426
21	NCAC	68	.0303*	12:15 NCR 1426
21	NCAC	68	.0304	12:15 NCR 1426
21	NCAC	68	.0306 - .0307	12:15 NCR 1426
21	NCAC	68	.0602	12:15 NCR 1426
21	NCAC	68	.0603*	12:15 NCR 1426
21	NCAC	68	.0608	12:15 NCR 1426
26	NCAC	04	.0101	12:16 NCR 1508
26	NCAC	04	.0201	12:16 NCR 1508
26	NCAC	04	.0202*	12:16 NCR 1508
26	NCAC	04	.0203 - .0204	12:16 NCR 1508

TITLE 2 - DEPARTMENT OF AGRICULTURE

CHAPTER 34 - STRUCTURAL PEST CONTROL DIVISION

SECTION .0100 - DEFINITIONS AND STANDARDS

.0102 DEFINITIONS

For the purpose of interpretation of the rules, regulations, definitions, and requirements of the North Carolina Structural Pest Control Committee and the Structural Pest Control Law, and unless otherwise required by the context, the following definitions shall prevail, to wit:

- (1) "Act and/or law" means the Structural Pest Control Act of North Carolina of 1955.
- (2) "Active infestation of a specific organism" means evidence of present activity by that organism, visible in, on, or under a structure, or in or on debris under the structure.
- (3) "Active ingredient" means an ingredient which will or is intended to prevent, destroy, repel, or mitigate any pest.

- (4) "Acutely toxic rodenticidal baits" means all baits that, as formulated, are classified as Toxicity Category I or II (Signal Word "Danger" or "Warning") under 40 CFR Part 156.10.
- (5) "Board of Agriculture" means the Board of Agriculture of the State of North Carolina.
- (6) "Commercial certified applicator" shall mean any certified applicator employed by a licensed individual.
- (7) "Commercial structure" means any structure which is not a residential structure; including but not limited to shopping centers, offices, nursing homes, and similar structures.
- (8) "Complete surface residual spray" means the over-all application of any pesticide by spray or otherwise, to any surface areas within, on, under, or adjacent to, any structure in such a manner that the pesticide will adhere to surfaces and remain toxic to household pests and rodents or other pests for an extended period of time.
- (9) "Continuing education units" or "CEU" means units of noncredit education awarded by the Division of

- Continuing Studies. North Carolina State University or comparable educational institution, for satisfactorily completing course work.
- (10) "Continuing certification unit" or "CCU" means a unit of credit awarded by the Division upon satisfactory completion of one clock hour of classroom training.
 - (11) "Crack and crevice application" means an application of pesticide made directly into a crack or void area with equipment capable of delivering the pesticide to the target area.
 - (12) "Deficient soil sample" shall mean any soil sample which, when analyzed, is found to contain less than 25 percent, expressed in parts per million (ppm), of the termiticide applied by a licensee which would be found if the termiticide had been applied at the lowest concentration and dosage recommended by the labeling.
 - (13) "Department" means the Department of Agriculture and Consumer Services of the State of North Carolina.
 - (14) "Disciplinary action" means any action taken by the Committee as provided under the provisions of G.S. 106-65.28.
 - (15) "Division" means the Structural Pest Control Division of the Department of Agriculture and Consumer Services of the State of North Carolina.
 - (16) "Enclosed space" means any structure by whatever name known, including household structures, commercial buildings, warehouses, docks, vacant structures, and places where people congregate, such as hospitals, schools, churches, and others; railroad cars, trucks, ships, aircraft, and common carriers. It shall also mean vaults, tanks, chambers, and special rooms designed for use, being used, or intended to be used for fumigation operations.
 - (17) "Enforcement agency" means the Structural Pest Control Division of the Department of Agriculture and Consumer Services of the State of North Carolina.
 - (18) "EPA" means the Environmental Protection Agency of the United States Government.
 - (19) "EPA registration number" means the number assigned to a pesticide label by EPA.
 - (20) "Flammable pesticidal fog" means the fog dispelled into space and produced:
 - (a) from oil solutions of pesticides finely atomized by a blast of heated air or exhaust gases from a gasoline engine, or from mixtures of water and pesticidal oil solutions passed through a combustion chamber, the water being converted to steam, which exerts a shearing action, breaking up the pesticidal oil into small droplets (thermal fog); or
 - (b) from oil solutions of pesticides which are forced through very narrow space by centrifugal force and atomized as they are thrown off into the air (mechanical or cold fogs).
 - (21) "Fog or fogging" means micron sized particles of pesticide(s) dispersed by means of a thermal or centrifugal fogger or a pressurized aerosol pesticide.
 - (22) "Fumigation" means the use of fumigants within an enclosed space, or in, or under a structure, in concentrations which may be hazardous to man.
 - (23) "Fumigation crew" or "crew" means personnel performing the fumigation operation.
 - (24) "Fumigation operation" means all details prior to application of fumigant(s), the application of fumigant(s), fumigation period, and post fumigation details as outlined in these Rules.
 - (25) "Fumigation period" means the period of time from application of fumigant(s) until ventilation of the fumigated structure(s) is completed and the structure or structures are declared safe for occupancy for human beings or domestic animals.
 - (26) "Fumigator" means a person licensed under the provisions of G.S. 106-65.25(a)(3) or certified under the provisions of G.S. 106-65.25(e)(1) to engage in or supervise fumigation operations.
 - (27) "Gas-retaining cover" means a cover which will confine fumigant(s) to the space(s) intended to be fumigated.
 - (28) "General fumigation" means the application of fumigant(s) to one or more rooms and their contents in a structure, at the desired concentration and for the necessary length of time to control rodents, insects, or other pests.
 - (29) "Household" means any structure and its contents which are used for man.
 - (30) "Household pest" means any undesirable vertebrate or invertebrate organism, other than wood-destroying organisms, occurring in a structure or the surrounding areas thereof, including but not limited to insects and other arthropods, commensal rodents, and birds which have been declared pests under G.S. 143-444.
 - (31) "Household pest control" means that phase of structural pest control other than the control of wood-destroying organisms and fumigation and shall include the application of remedial measures for the purpose of curbing, reducing, preventing, controlling, eradicating, and repelling household pests.
 - (32) "Inactive license" shall mean any structural pest control license held by an individual who has no employees and is not engaged in any structural pest control work except as a certified applicator or registered technician.
 - (33) "Infestation of a specific organism" means evidence of past or present activity by that organism, visible in, on, or under a structure, or in or on debris under the structure.
 - (34) "Inspection for a specific wood-destroying organism" means the careful visual examination of

all accessible areas of a building and the sounding of accessible structural members adjacent to slab areas, chimneys, and other areas particularly susceptible to attack by wood-destroying organisms to determine the presence of and the damage by that specific wood-destroying organism.

- (35) "Inspector" means any employee of the Structural Pest Control Division of the Department of Agriculture and Consumer Services of the State of North Carolina.
- (36) "Licensed structural pest control operation," or "pest control operation," or "operator," or "licensed operator" means any person licensed under the provisions of G.S. 106-65.25(a) or unlicensed who, for direct or indirect hire or compensation is engaged in the business of controlling, destroying, curbing, mitigating, preventing, repelling, offering advice on control methods and procedures, inspecting and identifying infestations and populations of insects, rodents, fungi, and other pests within, under and on structures of any kind, or the nearby surrounding ground areas or where people may assemble or congregate including work defined under G.S. 106-65.24(23).
- (37) "Liquefied gas aerosol" means the spray produced by the extreme rapid volatilization of a compressed and liquefied gas, to which has been added a nonvolatile oil solution containing a pesticide.
- (38) "Noncommercial certified applicator" shall mean any certified applicator not employed by a licensed individual.
- (39) "Open porch" means any porch without fill in which the distance from the bottom of the slab to the top of the soil beneath the slab is greater than 12 inches.
- (40) "Residential structure" means any structure used, or suitable for use, as a dwelling such as a single- or multi-family home, house trailer, motor home, mobile home, a condominium or townhouse, or an apartment or any other structure, or portion thereof, used as a dwelling.
- (41) "Secretary" means the Secretary to the North Carolina Structural Pest Control Committee.
- (42) "Service vehicle" means any vehicle used regularly to transport the licensee or certified applicator or registered technician or other employee or any equipment or pesticides used in providing structural pest control services.
- (43) "Slab-on-ground" means a concrete slab in which all or part of that concrete slab is resting on or is in direct contact with the ground immediately beneath the slab.
- (44) "Solid masonry cap" means a continuous concrete or masonry barrier covering the entire top, width and length, of any wall, or any part of a wall, that provides support for the exterior or structural parts of a building.
- (45) "Space spray" means any pesticide, regardless of its

particle size, which is applied to the atmosphere within an enclosed space in such a manner that dispersal of the pesticide particles is uncontrolled. Pesticidal fogs or aerosols, including those produced by centrifugal or thermal fogging equipment or pressurized aerosol pesticides, shall be considered space sprays.

- (46) "Spot fumigation" means the application of a fumigant to a localized space or harborage within, on, under, outside of, or adjacent to, a structure for local household pest or rodent control.
- (47) "Spot surface residual spray" means the application of pesticidal spray directly to a surface and only in specific areas where necessary and in such a manner that the pesticidal material will largely adhere to the surface where applied and will remain toxic to household pests or rodents or other pests for which applied for an extended period of time.
- (48) "Structure" means all parts of a building, whether vacant or occupied, in all stages of construction.
- (49) "Structural pests" means all pests that occur in any type of structure of man and all pests associated with the immediate environs of such structures.
- (50) "Sub-slab fumigation" means the application of a fumigant below or underneath a concrete slab and is considered spot fumigation.
- (51) "Supervision," as used in 2 NCAC 34 .0325, shall mean the oversight by the licensee of the structural pest control activities performed under that license. Such oversight may be in person by the licensee or through instructions, verbal, written or otherwise, to persons performing such activities. Instructions may be disseminated to such persons either in person or through persons employed by the licensee for that purpose.
- (52) "Telephone answering service location" means any location used for the sole purpose of receiving telephone messages including locations which utilize call forwarding or other electronic answering or messaging technology.
- (53) "Termiticide(s)" (as used in these Rules) means those pesticides specified in 2 NCAC 34 .0502, Pesticides for Subterranean Termite Prevention and/or Control.
- (54) "Termiticide barrier" shall mean an area of soil treated with an approved termiticide, which, when analyzed, is not deficient in termiticide.
- (55) "To use any pesticide in a manner inconsistent with its labeling" means to use any pesticide in a manner not permitted by the labeling. Provided that, the term shall not include:
 - (a) applying a pesticide at any dosage, concentration, or frequency less than that specified on the labeling unless the labeling specifically prohibits deviation from the specified dosage, concentration, or frequency;
 - (b) applying a pesticide against any target pest

not specified on the labeling if the application is to the site specified on the labeling, unless the EPA has required that the labeling specifically state that the pesticide may be used only for the pests specified on the labeling;

- (c) employing any method of application not prohibited by the labeling unless the labeling specifically states that the product may be applied only by the methods specified by the labeling.
- (56) "Type of treatment" means the method used to apply a pesticide formulation to a specific location, including but not limited to: space spray, crack and crevice, complete surface residual, spot surface residual, bait placement, or fog.
- (57) "Unauthorized personnel" means any individual or individuals not given specific authorization by the licensee or certified applicator to enter areas to which access is restricted by these Rules.
- (58) "Under direct supervision of" means the act or process whereby application of a pesticide is made by a competent person acting under the instructions and control of a licensee or certified applicator who is responsible for the action of that person and who is available if and when needed, even though such licensee or certified applicator is not physically present at the time and place the pesticide is applied.
- (59) "Waiver" means a standard form prescribed by the Committee which will, when completed correctly, permit the licensee to deviate from or omit one or more of the minimum treatment methods and procedures for structural pests which are set forth in the Committee rules, definitions, and requirements.
- (60) "Wood-destroying insect report" means any written statement or certificate issued, by an operator or his authorized agent, regarding the presence or absence of wood-destroying insects or their damage in a structure.
- (61) "Wood-destroying organism" is an organism such as a termite, beetle, other insect, or fungus which may invade, inhabit, devour, or destroy wood or wood products and other cellulose material found in, on, under, in contact with, and around structures.
- (62) "Wood-destroying organism report" means any written statement or certificate issued, by an operator or his authorized agent, regarding the presence or absence of wood-destroying organisms or their damage in a structure.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. July 1, 1998; August 3, 1992; January 1, 1991; January 1, 1989.

SECTION .0300 - LICENSING AND

CERTIFICATION

.0302 APPLICATION FOR LICENSES AND CARDS: EXAMINATION

(a) Application for licenses under the provisions of G.S. 106-65.26(a) and (c):

- (1) Application for examination shall be on a regular form prescribed by the Division. All examinations shall be maintained and administered by the Committee secretary. The Committee may review the examinations and make recommendations regarding changes in same.
- (2) Upon approval of the application for examination, the Committee secretary shall notify the applicant of said approval and provide the necessary form(s) for the applicant to pre-register for the examination as required in Paragraph (c) of this Rule.
- (3) Applications to take the examination shall be either typed or printed in ink and sworn to before a notary public or some other official authorized by law to administer oaths.
- (4) A clear full-face, head, and shoulder photograph of the applicant, taken within the preceding 12 months of the date of application, and not less than two and one-half inches square, shall be attached to the application.
- (5) All applications to take the examination shall be retained by the office of the Committee secretary. All documents filed in support of an application shall be kept by the office of the Committee secretary; provided, however, that the Committee may at its discretion permit such documents to be withdrawn upon substitution of a true copy. All examinations shall remain the property of the Committee.
- (6) An applicant who fails to pass the license examination within 12 months of the approval of his application may be required to provide current information concerning his qualifications to take the examination to ensure that the applicant is still qualified to take the examination.
- (7) An applicant who gives or receives unauthorized assistance during an examination shall be dismissed from the examination and his markings or results shall be voided and said applicant's examination fee shall be forfeited. Such applicant shall not be permitted to take a reexamination for a period of six months from the date of the examination.
- (8) No person shall be admitted to the examination room except members of the Committee, the attorney for the Committee, the examining personnel, employees of the Structural Pest Control Division, and the applicants for licenses.
- (9) Any applicant making a score of 70 percent or more on any license examination(s) shall be issued a license in that phase(s) of structural pest control after making proper application therefor.
- (10) The applicant shall furnish such information as the

Committee may require to establish that said applicant possesses qualifications as specified in G.S. 106-65.26 of the Act for the particular license(s) which he seeks. The Committee, or its authorized representatives, may make such investigations as it deems necessary with respect to the applicant's qualifications.

- (11) All applicants passing the examination(s) for licenses shall apply for said licenses within six months from the date on which the examinations were passed. If such applicants fail to make application for said licenses, within the specified period, such applicants shall be required to take and satisfactorily pass reexaminations covering phases of structural pest control work for which licenses were applied before said licenses are issued.
 - (12) If an applicant for a license fails an examination, he or she may review the examination at the next regularly scheduled review session.
- (b) Application for certified applicator's identification card under the provisions of G.S. 106-65.26(a) and (b):
- (1) Applications filed pursuant to G.S. 106-65.26(a) and (b) shall be on a regular form prescribed by the Division.
 - (2) An applicant for a certified applicator's identification card in any phase of structural pest control shall furnish such information as the Committee may require to establish that said applicant possesses qualifications as specified in G.S. 106-65.26 of the Act for the particular certified applicator's identification card which he seeks. The Committee or its authorized representatives may make such investigations as it deems necessary with respect to the applicant's qualifications.
 - (3) All applications for certified applicator's identification cards under the provisions of G.S. 106-65.26(a) and (b) shall be retained by the office of the Committee secretary. All documents filed in support of an application shall be kept by the office of the Committee secretary; provided, however, that the Committee may at its discretion permit such documents to be withdrawn upon substitution of a true copy. All examinations shall remain the property of the Committee.
 - (4) Any applicant making a score of 70 percent or more on the core certification examination and on any certified applicator's examination(s) shall be issued a certified applicator's identification card in that phase of structural pest control after making proper application therefor.
 - (5) All applicants passing the examination(s) for certified applicator's identification cards shall apply for said cards within six months from the date on which the examinations were passed. If such applicants fail to make application for said certified applicator's identification cards within the specified period, such applicants shall be required to take and

satisfactorily pass reexaminations covering phases of structural pest control work for which certified applicator's identification cards were applied before said cards are issued.

- (6) If an applicant fails to obtain a certified applicator's identification card within 12 months of passing the core examination the applicant must take and pass a reexamination before being eligible for the card.
 - (7) Upon receipt of the application for examination, the Committee secretary shall provide the necessary forms for the applicant to pre-register for the examination as required in Paragraph (c) of this Rule.
 - (8) If an applicant for a certified applicator's card fails an examination, he or she may review the examination at the next regularly scheduled review session.
 - (9) Subparagraphs (a)(2), (5), (7), and (8) of this Rule shall also apply to all applicants for certified applicator's identification cards.
 - (10) Effective January 1, 1999, completion of the Registered Technician School shall be a prerequisite for the certification examination.
- (c) Pre-registration for license and certified applicator examination applicants:
- (1) All applicants for the license and/or certified applicator's examination(s) shall pre-register with the Committee secretary for said examination(s) no less than 10 days prior to the date of the examination.
 - (2) Applicants who fail to pre-register shall not be permitted to take the examination.
 - (3) Pre-registration shall include a properly completed application for examination.
- (d) Frequency of examination by license applicant limited:
- (1) An applicant who initially fails to pass the license examination may retake the examination at any subsequent regularly scheduled examination.
 - (2) An applicant who fails to pass the second license examination shall wait a minimum of one examination between each subsequent examination; except that, in the event of a death of a licensee the applicant intending to succeed the deceased licensee may take the examination a third time prior to the first one examination waiting period.
 - (3) No applicant shall be permitted to take the examination more than six times per year nor more than two times in consecutive months, except as provided for in Subparagraph (d)(2) of this Rule.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. July 1, 1998; August 3, 1992; January 1, 1991; January 1, 1989.

.0303 DATES OF EXAMINATION AND EXAMINATION REVIEW

(a) Examinations for all phases of structural pest control shall be given monthly.

(b) The Division shall publish the date and location of each exam at least 30 days in advance of the examination.

(c) Examination reviews shall be scheduled each month by the Division.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. July 1, 1998.

.0306 MAILING OF RENEWAL FORMS

On or before May 1 of each year the Division shall forward renewal forms to all holders of licenses and identification cards for their use in applying for renewal of said licenses, certified applicator's identification cards, and registered technician's identification cards.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. July 1, 1998; January 1, 1991; August 20, 1980; August 1, 1980.

.0308 DISPLAY OF CERTIFIED APPLICATOR'S IDENTIFICATION CARD

A certified applicator's identification card shall be provided annually to each certified applicator at the time of the renewal of his certified applicator's identification card. If a certified applicator is employed by a licensee, his certified applicator's identification card shall bear his employer's license number and phase(s) and expire when his employer's license expires. Each such certified applicator's identification card shall bear only one license number, one company name, and not more than three license phases. The certified applicator's identification card shall be carried on the person of the certified applicator at all times when performing any phase of structural pest control work. A certified applicator's identification card shall be displayed upon demand to an inspector, the Committee or its authorized representative, or the person for whom any phase of structural pest control work is being performed.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. July 1, 1998; August 1, 1980.

.0309 RECERTIFICATION

(a) Certified applicators and licensees shall be certified for a five-year period. At the end of said five-year period, a certified applicator or licensee, at his discretion, may be recertified for another five-year period by choosing one of the following options:

- (1) reexamination taken between January 1, prior to the expiration of the five-year recertification period, and June 30;

- (2) for recertification prior to July 1, 2002: earning Continuing Certification Units of formal training approved by the Committee and received by the certified applicator during the five years immediately preceding the expiration date of his certification. The number of CCUs required shall be as follows:

- (A) recertification in any one phase: five CCUs total, two of which must be solely applicable to the phase in which recertification is desired;
 - (B) recertification in any two phases: seven CCUs total, two of which must be solely applicable to the first phase and two solely applicable to the second phase in which recertification is desired;
 - (C) recertification in all three phases: nine CCUs total, two of which must be solely applicable to the first phase, two solely applicable to the second phase, and two solely applicable to the third phase in which recertification is desired;
 - (D) licensees and noncommercial certified applicators must earn at least one of the required continuing certification units established in Subparagraph (a)(2) of this Rule in each of three years of the five-year recertification period;
 - (E) commercial certified applicators must earn at least one of the required continuing certification units established in Subparagraph (a)(2) of this Rule in at least two years of the five-year recertification period;
 - (F) continuing certification units shall not be carried forward beyond the five-year recertification period.
- (3) for recertification after July 1, 2002: earning Continuing Certification Units during the five years immediately preceding the expiration date of his certification. The number of CCUs required shall be as follows:

- (A) recertification in any one phase: 10 CCUs total, five of which must be solely applicable to the phase in which recertification is desired;
- (B) recertification in any two phases: 15 CCUs total, five of which must be solely applicable to the first phase and five solely applicable to the second phase in which recertification is desired;
- (C) recertification in all three phases: 20 CCUs total, five of which must be solely applicable to the first phase, five solely applicable to the second phase, and five solely applicable to the third phase in which recertification is desired;
- (D) licensees and noncommercial certified

applicators must earn at least one of the required continuing certification units established in Subparagraph (a)(3) of this Rule in at least four years of the five-year recertification period:

- (E) commercial certified applicators must earn at least one of the required continuing certification units established in Subparagraph (a)(3) of this Rule in at least three years of the five-year recertification period;
- (F) continuing certification units shall not be carried forward beyond the five-year recertification period.

(b) Licensees holding an inactive license shall be subject to the requirements of this Rule.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. July 1, 1998; January 1, 1989; August 1, 1980.

.0313 REGISTERED TECHNICIAN'S IDENTIFICATION CARDS/ TRAINING MATERIALS

(a) A registered technician's identification card shall contain, but not be limited to, the following information:

- (1) name of registrant;
- (2) name of licensee or employer;
- (3) name of licensee's company;
- (4) address of licensee's company;
- (5) license number and phase(s) of licensee;
- (6) age, weight, height, color of hair and eyes of registrant;
- (7) job classification of card holder;
- (8) issuance date, expiration date, and license year covered by card.

(b) The registered technician's identification card and the license of the employer of the card holder shall bear the same license number and license phase(s). Each registered technician's identification card shall bear only one license number, one company name, and not more than three license phases.

(c) A licensee or noncommercial certified applicator applying for the issuance or renewal of a registered technician's identification card for his employee shall certify to the Division that the employee has completed employee training approved by the Committee in structural pest control work.

(d) All individuals who make application for the issuance, not renewal, of registered technician's identification cards after January 1, 1999, shall complete the following training, or its equivalent, before becoming eligible for the identification card:

- (1) Introductory Training:
 - (A) Introductory training shall include completion of the workbook, *Introductory Training for Registered Technicians*; and

(B) A minimum of 24 hours of on-the-job training in applicable phases of structural pest control by the licensee, certified applicator, or registered technician having at least two years of experience.

(2) On-the-job training involving the methods and materials the employee will use in the day-to-day performance of his duties.

(3) The *North Carolina Structural Pest Control Registered Technician School*. A fee of twenty-five dollars (\$25.00) shall be charged for each employee attending the Registered Technician School.

(e) Training materials and records shall be made available for inspection during regular business hours upon request by the Division and shall be retained two years beyond the last date of the individual's employment.

(f) Introductory training shall be completed before the employee is permitted to mix or apply pesticides without the on-site supervision of a registered technician, certified applicator, or licensee.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. July 1, 1998; August 3, 1992; January 1, 1991; December 1, 1987.

.0325 DUTY OF LICENSE HOLDER TO CONTROL ACTIVITIES

(a) The licensee shall be actively and personally engaged in the supervision of the structural pest control activities of any office to which his/her license is assigned.

(b) If any office or individual employee of a license holder is not within 75 miles of the licensee's residence, by the nearest public road, the licensee shall submit to the Committee, in writing, information to show that he/she is, in fact, controlling, directing, and supervising the structural pest control activities of said office or employee.

(c) In the event information submitted to the Committee by a license holder is insufficient for the Committee to determine that said holder is, in fact, controlling, directing, and supervising the structural pest control activities of his office or employees, the Committee shall require said holder to appear before it and set forth, in detail, information to show that he/she is, in fact, in charge of the structural pest control activities of his office or employees.

(d) The information required in Paragraph (b) of this Rule shall be submitted within 10 days of employment of any individual to which Paragraph (b) of this Rule applies and at the time the license or identification card is issued, reissued, or renewed.

(e) It shall be a violation of the rules of the Committee for any license holder to fail to adequately control, direct, and supervise the structural pest control activities of his/her office or employees.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. July 1, 1998; January 1, 1989; August 1, 1980.

.0328 RECORDS: PESTICIDES AND APPLICATION EQUIPMENT USED

(a) All required structural pest control records and pesticides and application equipment used by the licensee or noncommercial certified applicator shall be maintained at the office location to which the license or certified applicator's card is issued.

(b) Notwithstanding the requirements of Paragraph (a) of this Rule, a licensee may request permission, annually, from the Division, to maintain records, pesticides, and application equipment in a location other than the office location specified in Paragraph (a) of this Rule. In determining whether or not to grant such permission, the Division shall ensure that its ability to regulate the licensee will not be adversely affected by granting the request.

(c) All such records, pesticides, and equipment shall be made available for inspection during regular business hours upon request by the Division.

History Note: Authority G.S. 106-65.29;

Eff. August 1, 1980;

Amended Eff. July 1, 1998; January 1, 1989.

SECTION .0400 - PUBLIC SAFETY

.0401 PUBLIC SAFETY: STORAGE AND HANDLING OF CONTAINERS

(a) All pesticides shall be kept securely, in leakproof containers and labeled as specified in 2 NCAC 34 .0402.

(b) In no case shall containers of pesticide(s) be left where pets, domestic animals, children, or other unauthorized persons might remove or consume the contents.

(c) Food containers shall not be used as pesticide containers.

(d) When pesticides are stored or transported in or on a vehicle, a suitable storage space shall be provided thereon. Such space shall be constructed so as to maintain all pesticide containers in a manner which will prevent spills and shall be locked when the vehicle is unattended.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. July 1, 1998; January 1, 1989; August 1, 1980.

.0403 FIRST AID

First aid equipment and first aid procedures, approved by the EPA or Federal Occupational Safety and Health Administration, shall be placed in all service vehicles and in all other areas where pesticides are stored or handled.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. July 1, 1998; August 1, 1980.

SECTION .0500 - WOOD-DESTROYING ORGANISMS

.0501 WOOD-DESTROYING INSECTS: EXCLUDING SUBTERRANEAN TERMITES

(a) Determining Active Infestations of Wood-Destroying Beetles. The licensee, certified applicator, and his representative(s) making the inspection for wood-destroying beetles shall each be responsible for determining the presence or absence of an active infestation(s). All proposals for the treatment of wood-destroying insects under Paragraphs (a) and (b) of this Rule shall be in writing and contain the name(s) of the wood-destroying insects(s) to be controlled, that part of the structure to be covered under the agreement (entire structure, understructure only, entire interior of the garage, etc.), and the basis on which the licensee, certified applicator, or his representative(s) determined the infestation to be active or inactive as set forth herein below:

(1) Powder Post Beetle(s) (Anobiidae, Bostrichidae and Lyctidae)

(A) The presence of frass, the color of fresh cut wood, will be acceptable as evidence of an active infestation of powder post beetles.

(B) The presence of holes alone or holes and dull colored frass will not be acceptable evidence of an active infestation of powder post beetles except in such cases where live larvae or pupae are found in wood members. Where holes alone are found in wood members, this should encourage the licensee, certified applicator, or his representative(s) to check the property during the optimum time for adult emergence--May 1 to August 31. It should be pointed out that Anobiid beetles usually confine themselves to softwoods such as pine while Lyctid beetles confine themselves to hardwoods such as oak or pecan.

(C) If a licensee performs a guaranteed or warranted treatment for powder post beetles, the period of initial liability with regards to active infestation shall be 18 months from the original treatment date.

(D) If an active infestation of powder post beetles is found by the Division in any structure treated for said beetles, during or after the first complete adult beetle emergence period within 18 months of the treatment date, the licensee or certified applicator responsible for said treatment shall retreat the infested areas of the structure within 30 days of written notice from the Division. Retreatment shall be performed, upon request of the Division, in the presence of a structural pest control

inspector.

- (2) Old House Borer (*Hylotrupes bajulus*). The presence of old house borer or oval exit holes with sawdust-like frass consisting of fine powder with tiny pellets in oval galleries in pine or other softwoods will be evidence of an active infestation of the old house borer. It should be pointed out that feeding larvae of the old house borer can be detected by sound; however, other long-horned borer and flatheaded borer larvae make similar sounds. Therefore, frass and insect characteristics should be used to confirm identity.

(b) Identifying Other Wood-Destroying Insects. There are other species of wood-destroying insects which occur in structures. Before recommending treatment or selling a service for the prevention or control of wood-destroying insects, other than powder post beetles or old house borer, the licensee, certified applicator, and/or their representative(s) shall identify the wood-destroying insect(s) in question and inform the property owner or his authorized representative of the identity and habits of the wood-destroying insect(s) in question.

(c) Any reapplication of pesticides under this Rule shall be in accordance with the label of the pesticide used.

(d) Pesticide applications for the prevention of wood-boring beetles may only be performed after informing the property owner or their authorized agent in writing of the biology and conditions supporting the infestation and survival of said insects. Such notice shall include an evaluation of the condition of the structure(s) to be treated and a statement as to whether or not such condition will support an infestation by wood-boring beetles.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. July 1, 1998; January 1, 1989; August 1, 1980.

.0502 PESTICIDES FOR SUBTERRANEAN TERMITE CONTROL

(a) Through June 30, 1999, any pesticide may be used for the prevention and/or control of subterranean termites provided that it bears an EPA-approved label for such use and the pesticide is applied according to the directions of its label.

(b) Effective July 1, 1999, only those products which bear an EPA-approved label for such use and for which the Committee has received the following information may be used for subterranean termite control:

- (1) A statement from the pesticide registrant that the termiticide is primarily intended, either for use:
 - (A) as a supplement to or in combination with other treatment(s); or
 - (B) by itself, as the sole source of termite control; and
 - (2) For termiticides under Part (b)(1)(B) of this Rule, efficacy data in a form prescribed by the Committee.
- (c) Termiticides intended for use as a supplement to or in

combination with other termiticides may not be used alone without first disclosing the registrants' recommendations to the property owner or agent.

(d) A list of termiticides for which information and/or data has been received may be obtained by writing the North Carolina Department of Agriculture and Consumer Services, Structural Pest Control Division, P.O. Box 27647, Raleigh, NC 27611 or by calling (919) 733-6100.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. July 1, 1998; August 1, 1980.

.0503 SUBTERRANEAN TERMITE CONTROL: BUILDINGS AFTER CONSTRUCTED

(a) Basement or Crawl Space Construction:

- (1) Access openings shall be provided to permit inspection of all basement and crawl space areas of a building and all open porches.
- (2) Clean up and remove all wood debris and cellulose material, such as wood, paper, cloth, etc., contacting soil in all crawl space areas. This excludes shavings or other cellulose material too small to be raked with the tines of an ordinary garden rake. Remove all visible stumps from all crawl space areas. Remove all visible form boards in contact with soil.
- (3) Remove all earth which is within 12 inches of the bottom edges of floor joists or within eight inches of the bottom edges of subsills or supporting girders, but not below footings of foundation walls. If foundation footings are less than 12 inches below the bottom edges of joists or subsills or supporting girders, a bank of soil 12 inches to 18 inches wide shall be left adjacent to footings for the purpose of support. Clearance shall be adequate to provide passage of a person to all crawl space areas of a building.
- (4) All visible termite tubes or tunnels on pillars, pilasters, foundation walls, chimneys, step buttresses, sills, pipes, and other structures below the sill line shall be removed.
- (5) Eliminate all wooden parts making contact with the building and soil, both outside and inside, except those which appear to be pressure treated:
 - (A) No wood of any access opening shall be in contact with the soil.
 - (B) Where wood parts such as door frames, partition walls, posts, stair carriages, or other wood parts can be reasonably ascertained to be making direct soil contact through concrete or where there is evidence of termite activity or damage they shall be cut off above the ground or floor level and the wood removed from the concrete; and the hole shall be filled with concrete or covered with a metal plate, after the point of contact

- has been treated with a termiticide.
- (C) Where wood parts such as vertical wood supports or other wood parts under a building or steps outside a building are not resting on solid masonry or concrete bases extending at least two inches above the soil surface or are in direct soil contact and such supports or steps are not removed, the supports and steps shall be cut off and set on a solid masonry or concrete footing extending at least two inches above the ground after the point of contact has been treated with a termiticide.
- (D) When wood skirting and lattice work are suspended, there shall be at least a two-inch clearance between the top of the soil and the bottom edges of the wood skirting or lattice work. If the two-inch clearance is not acceptable to the property owner, it may be closed with solid masonry or concrete but a minimum clearance of one-fourth of one inch shall be provided between the masonry and wood.
- (E) Where wood fence posts are making contact with the soil and any part of a building and such posts are not removed, a minimum clearance of one-fourth of one inch shall be provided between the posts and the building part; a continuous, noncorrosive sheet metal barrier, extending two inches beyond each side of the post(s), may be substituted for the clearance. If the fence has wood railings, alteration(s) of the fence post against the building will not suffice.
- (F) Where houses or decks are built on pressure treated wood pilings, pillars, or all-weather wood foundations, such pilings, pillars, and wood foundation members, including wood step supports, shall not be subject to Parts (a)(5)(A), (B), or (C) of this Rule.
- (6) Where evidence of either past or present subterranean termite infestation exists, drill and treat all voids in multiple masonry foundation and bearing walls and all voids created by their placement at and a minimum distance of four feet in all directions from such evidence. Porch foundation walls shall be drilled to a distance of three feet from the main foundation wall and the point of contact with any wooden members.
- (A) The distance between drill holes shall not exceed 16 lineal inches and holes shall be no more than 16 inches above the footing or immediately above the lowest soil level whichever is closest to the footing.
- (B) Test drill the main foundation wall behind any porch or slab area to determine if the porch or slab is supported by a wall whose placement creates a void between itself and the main foundation wall. If test reveals that a void exists, drill and treat all voids therein as specified in this Rule.
- (7) Where evidence of either past or present subterranean termite infestation exists, drill and treat all voids in all multiple masonry pillars, pilasters, chimneys, and step buttresses associated or in contact with such evidence, and any void created by their placement:
- (A) The distance between drill holes shall not exceed 16 lineal inches and shall be no more than 16 inches above the footing or immediately above the lowest soil level, whichever is closest to the footing.
- (B) Drilling shall not be required if solid concrete masonry footings of pillars, pilasters, chimneys, or step buttresses extend eight inches or more above top of soil surface.
- (8) Where concrete slabs over dirt-filled areas are at the level of, above the level of, or in contact with, wood foundation members treat dirt-filled areas with a termiticide as follows:
- (A) Drill vertically three-eighths of one inch or larger holes in the slab, no more than six inches from the building foundation, at no more than 12-inch intervals and treat soil below slab from the bottom of the slab to the top of the footing; or
- (B) Drill horizontally three-eighths of one inch or larger holes in the foundation wall of the concrete slab, no more than six inches from the building foundation, every 16 vertical inches starting immediately below the bottom of the slab and rod treat all soil adjacent to building foundation from the bottom of the slab to the lowest outside grade.
- (9) Trench or trench and rod treat soil to establish a continuous termiticide barrier in the soil adjacent to, but not more than six inches from, all pillars, pilasters, chimneys, pressure treated wood supports, and step buttresses; inside of foundation walls; outside of foundation walls; the outside of foundation walls of concrete slabs over dirt-filled areas and the entire perimeter of a slab foundation wall from the top of the grade to the top of the footing or to a minimum depth of 30 inches, whichever is less. Where footings are exposed, treatment shall be performed adjacent to the footing but not below the bottom of the footing. The trench shall be no less than six inches in depth or to the bottom of the footing, whichever is less. Where outside concrete slabs adjacent to the foundation prevent trenching of soil, drill three-eighths of one inch or larger holes, not more than 12 inches apart and within six inches of the foundation wall, through slabs or through adjoining foundation wall.

and rod treat soil below slabs as indicated above to establish a continuous termiticide barrier at all known points of entry. The soil immediately around pipes and other utility conduits making contact with the structure shall be treated.

- (10) Where stucco on wood or similar type materials, including extruded or expanded rigid foam insulation or similar materials, extend to or below grade, trench soil to a depth below and under the edge of the stucco or similar type materials and treat soil to establish a continuous termiticide barrier in the soil. After the soil has been treated, a masonry barrier wall may be erected to hold back the soil from making direct contact with the stucco or similar type materials. Where outside slabs on grade adjacent to foundation prevent trenching of soil, drill three-eighths of one inch or larger holes through slabs within six inches of the foundation wall, or through adjoining foundation wall, not more than 12 inches apart and rod treat soil below slabs. Where drain tile, french drains, or other foundation drainage systems present a hazard of contamination outside the treatment zone, treatment shall be performed in a manner that will not introduce termiticide into the drainage system.

- (11) Paragraph (b) of this Rule shall be followed if applicable to basement or crawl space construction.

(b) Slab-on-Ground Construction:

- (1) Treat soil to establish a continuous termiticide barrier in, under, and around, all traps and openings in the slab.
- (2) Drill vertically three-eighths inch or larger holes, at all visible or known expansion and construction joints, cracks, and crevices in slab and around all utility conduits in the slab at no more than 12-inch intervals and rod treat soil below slab to establish a continuous termiticide barrier from the bottom of the slab to a depth of 30 inches or to the top of the footing, whichever is less, at all known points of entry. Where wooden structural members are in contact with concrete or masonry floors which have joints or cracks beneath the wooden structural members, including wall plates in utility or storage rooms adjoining the main building, the concrete or masonry shall be drilled and treated in order to achieve treatment of the soil beneath them. As an exception, expansion and construction joints at the perimeter of the exterior wall may be rod treated by drilling through the foundation wall at no more than 12-inch intervals directly below the bottom of the slab.

- (3) Paragraph (a) of this Rule shall also be followed.

(c) Reapplication of Pesticide(s) to a Structure Previously Treated for Subterranean Termite Control:

- (1) A reapplication of termiticide shall be required if soil test by the Division reveals that the soil is deficient in the termiticide which was applied to the soil.

- (2) Any reapplication of pesticides under this Rule shall be in accordance with the label of the pesticide used.

(d) A licensee may enter into a written agreement for the control or prevention of subterranean termites in a building after it has been constructed without having to abide by Paragraphs (a) and (b) of this Rule provided that:

- (1) The licensee has written proof, satisfactory to the Committee, that he or his authorized agent treated the entire building for subterranean termites at the time of its construction as required in 2 NCAC 34 .0505 or 2 NCAC 34 .0506 (or comparable rules by the Committee at the time of treatment); and
- (2) A written agreement is issued in compliance with 2 NCAC 34 .0605.

(e) Paragraphs (a) and (b) of this Rule shall not apply to subterranean termite treatment performed using termite bait(s) labeled for protection of the entire structure when the licensee provides a warranty for the control of subterranean termites on the entire structure.

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Amended Eff. August 1, 1980;

Temporary Expired Eff. September 22, 1987;

Amended Eff. January 1, 1989;

Temporary Amendment Eff. January 10, 1997;

Temporary Expired Eff. October 31, 1997;

Amended Eff. July 1, 1998.

.0504 REPORTING DAMAGE: INFESTATION: UNINSPECTED AREAS

(a) When inspecting for wood-destroying insects or wood-decay organisms or both, all wood members of a structure which can be ascertained by visual inspection to be damaged shall be promptly brought to the attention of the property owner or his authorized agent and shall also be indicated in writing, in the contract or agreement, by the licensee or his authorized agent.

(b) The licensee or his authorized agent shall indicate in writing, in the contract or agreement, whether or not he is responsible for the replacement, repair, or reenforcement of any or all of the wood members which were ascertained by visual inspection to be damaged.

(c) Any visible evidence of infestation of wood-destroying organisms in, on, under, or in contact with, a structure shall be promptly brought to the attention of the property owner or his authorized agent and shall be specified, in writing, in the contract or agreement, by the licensee or his authorized agent.

(d) The licensee or his authorized agent shall indicate and describe, in writing, on the contract or agreement, any area(s) of the building or crawl space of the building which have not been inspected and give the reasons for not making such inspection(s).

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. July 1, 1998; August 1, 1980.

**.0505 SUBTERRANEAN TERMITE PREVENTION/
RES BLDGS UNDER CONST**

(a) All treatments performed pursuant to this Rule shall be performed at the label recommended rate and concentration only.

(b) Basement or Crawl Space Construction

(1) Establish a vertical barrier in the soil by trenching or trenching and rodding along inside of the main foundation wall; the entire perimeter of all multiple masonry chimney bases, pillars, pilasters, and piers; and both sides of partition or inner walls with a termiticide from the top of the grade to the top of the footing or to a minimum depth of 30 inches, whichever is less. Where footings are exposed, treatment shall be performed adjacent to the footing but not below the bottom of the footing. Trench shall be no less than six inches in depth or to the top of the footing, whichever is less. Where drain tile, french drains, or other foundation drainage systems present a hazard of contamination outside the treatment zone, treatment shall be performed in a manner that will not introduce termiticide into the drainage system.

(2) After a building or structure has been completed and the excavation filled and leveled, so that the final grade has been reached along the outside of the main foundation wall, including any landscaping to be completed by the builder, establish a vertical barrier in the soil by trenching or trenching and rodding adjacent to the outside of the main foundation wall with a termiticide from the top of the grade to the bottom of the footing or to a minimum depth of 30 inches, whichever is less. Where footings are exposed, treatment shall be performed adjacent to the footing and not below the bottom of the footing. Trench shall be no less than six inches in depth or to the bottom of the footing, whichever is less. Where drain tile, french drains, or other foundation drainage systems present a hazard of contamination outside the treatment zone, treatment shall be performed in a manner that will not introduce termiticide into the drainage system.

(3) Establish a horizontal termiticide barrier in the soil within three feet of the main foundation, under slabs, such as patios, walkways, driveways, terraces, gutters, etc., attached to the building. Treatment shall be performed before slab is poured, but after fill material or fill dirt has been spread.

(4) Establish a horizontal termiticide barrier in the soil under the entire surface of floor slabs, such as basements, porches, entrance platforms, garages, carports, breezeways, sun rooms, etc. The treatment shall be performed before slab is poured

but after fill material or fill dirt has been spread.

(5) Establish a vertical termiticide barrier in the soil around all critical areas, such as expansion and construction joints and plumbing and utility conduits, at their point of penetration of the slab or floor or, for crawl space construction, at the point of contact with the soil.

(6) If concrete slabs are poured prior to treatment, treatment of slabs shall be performed as required by 2 NCAC 34 .0503(a) or (b): Except that; the buyer of the property and/or his authorized agent may release the licensee from further treatment of slab areas under this Rule provided such release is obtained in writing on the form prescribed by the Division. This form may be obtained by writing the North Carolina Department of Agriculture and Consumer Services, Structural Pest Control Division, PO Box 27647, Raleigh, NC 27611 or by calling (919) 733-6100.

(c) Slab-on-Ground Construction. All parts of Paragraph (a) of this Rule shall be followed, if applicable, in treating slab-on-ground construction.

(d) All treating requirements specified in this Rule shall be completed within 60 days following the completion of the structure, as described in Subparagraph (b)(2) of this Rule.

(e) Paragraphs (b) and (c) of this Rule shall not apply to subterranean termite treatment performed using termite bait(s) labeled for protection of the entire structure when the licensee provides a warranty for the control of subterranean termites on the entire structure.

History Note: Filed as a Temporary Repeal Eff. August 24, 1987 for a period of 30 days to expire on September 22, 1987; Authority G.S. 106-65.29;

Eff. July 1, 1976;

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Amended Eff. August 1, 1980;

Temporary Expired Eff. September 22, 1987;

Amended Eff. July 1, 1998; January 1, 1991; January 1, 1989.

**.0506 MIN REQUIRE/SUBTERRANEAN TERMITE
PREV/COMMERCIAL BLDGS
UNDER CONST**

(a) All treatments performed pursuant to this Rule shall be performed at the label recommended rate and concentration only.

(b) Minimum Treatment Requirements:

(1) Establish a vertical barrier in the soil by trenching or trenching and rodding along inside of the main foundation wall; the entire perimeter of all multiple masonry chimney bases, pillars, pilasters, and piers; and both sides of partition or inner walls with a termiticide from the top of the grade to the bottom of the footing or a minimum depth of 30 inches, whichever is less. Where footings are exposed, treatment shall be performed adjacent to the footing but not below the bottom of the footing. Trench shall be no less than six inches in depth or to the

bottom of the footing, whichever is less. Where drain tile, french drains, or other foundation drainage systems present a hazard of contamination outside the treatment zone, treatment shall be performed in a manner that will not introduce termiticide into the drainage system.

- (2) After a building or structure has been completed and the excavation filled and leveled, so that the final grade has been reached along the outside of the main foundation wall, including any landscaping to be completed by the builder, establish a vertical barrier in the soil adjacent to the outside of the main foundation wall by trenching or trenching and rodding with a termiticide from the top of the grade to the top of the footing or to a minimum depth of 30 inches, whichever is less. Where footings are exposed, treatment shall be performed adjacent to the footing and not below the bottom of the footing. Trench shall be no less than six inches in depth or to the bottom of the footing, whichever is less. Where drain tile, french drains, or other foundation drainage systems present a hazard of contamination outside the treatment zone, treatment shall be performed in a manner that will not introduce termiticide into the drainage system.
- (3) Establish a horizontal termiticide barrier in the soil within three feet of the main foundation, under slabs, such as patios, walkways, driveways, terraces, gutters, etc. Treatment shall be performed before slab is poured but after fill material or fill dirt has been spread.
- (4) Establish a vertical termiticide barrier in the soil around all critical areas, such as expansion and construction joints and plumbing and utility conduits, at their point of penetration of the slab of floor, or for crawl space construction, at the point of contact with the soil.
- (5) If concrete slabs are poured prior to treatment, treatment of slabs shall be performed as required by 2 NCAC 34 .0503(a) or (b).

(c) Paragraph (b) of this Rule shall not apply to subterranean termite treatment performed using termite bait(s) labeled for protection of the entire structure when the licensee provides a warranty for the control of subterranean termites on the entire structure.

History Note: Authority G.S. 106-65.29;

Eff. January 1, 1991;

Amended Eff. July 1, 1998.

.0507 APPLICATION EQUIPMENT

Effective July 1, 1998, all application equipment used to apply pesticides for wood-destroying organisms, other than compressed air sprayers of less than five-gallon capacity shall:

- (1) have all hoses securely attached to the tank, pump, and other equipment components;
- (2) be constructed so that the output pressure can be adjusted to meet the requirements of the pesticide

being applied; and

- (3) except for in-line injection systems, be equipped with a functional bypass flow agitation device.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1998.

SECTION .0600 - WOOD-DESTROYING ORGANISMS AGREEMENTS

.0602 WOOD-DESTROYING INSECT AND OTHER ORGANISM REPORTS

(a) Any written statement as to the presence or absence of wood-destroying insects or organisms or their damage in buildings or structures for sale shall be on the WDIR 100. An incomplete or inaccurate Wood-Destroying Insect Information Report shall not be acceptable and the issuance of such a report is grounds for disciplinary action by the Committee. No Wood-Destroying Insect Information Report or Wood-Destroying Organism Report shall be issued before an inspection of the building or structure is made. Each Wood-Destroying Insect Information Report issued by a licensee shall be kept in the files of said licensee and made available for inspection upon request of the Division.

(b) If during the inspection of a structure, a licensee or his authorized agent finds live subterranean termites or visible evidence of past or present infestation of subterranean termites (such as tubes, damage, cast wings, infested wood scraps, or other cellulose materials, etc.) in the structure and there is no visible evidence that said structure has been treated for subterranean termites, the licensee shall treat said structure for subterranean termites prior to the issuance of a Wood-Destroying Insect Information Report on the structure which states that the structure is free from subterranean termites or that a previous infestation is inactive.

(c) If a treatment is performed in conjunction with a WDIR, a copy of the written agreement and warranty, if any, shall be included with or attached to and become a part of the WDIR.

(d) A licensee, certified applicator, or registered technician shall not remove or destroy, or cause the removal or destruction of, any wood-destroying organism evidence discovered in, on, under, or in or on debris under a structure inspected pursuant to this Rule except as required by Paragraph (b) of this Rule.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. August 3, 1992; September 1, 1987; August 1, 1980;

Temporary Amendment Eff. January 10, 1997;

Temporary Expired Eff. October 31, 1997;

Amended Eff. July 1, 1998.

.0604 WOOD-DESTROYING ORGANISMS RECORDS

(a) A duplicate of each written agreement and waiver (if applicable) for the control or prevention of any

wood-destroying organism shall be kept by the licensee for a minimum of two years beyond the expiration date of the written agreement. The duplicate of each written agreement shall contain, in addition to the information specified under 2 NCAC 34 .0605(a) or (d), the following:

- (1) EPA approved brand name of pesticide used;
- (2) Names of all employees who applied pesticide; and
- (3) Information required by EPA;
- (4) For restricted use pesticides:
 - (A) concentration and approximate total volume of each pesticide applied; and
 - (B) Subparagraphs (a)(1) and (2) and Part (a)(4)(A) of this Rule shall also be included on the customer's copy of the written agreement.

(b) A duplicate of each wood-destroying insect or wood-destroying organism report shall be kept by the licensee for a minimum of two years beyond the date of issuance.

(c) Noncommercial certified applicators shall maintain the following records for two years beyond the last date of treatment:

- (1) EPA approved brand name of all pesticides used;
- (2) Concentration and approximate total volume of pesticide applied;
- (3) Names of all employees that applied pesticide;
- (4) Target pest;
- (5) Site of application;
- (6) Date of application; and
- (7) Information required by EPA.

(d) If the pesticide used to control any wood-destroying organism requires or recommends monitoring or inspecting for the pest to be controlled, the licensee, certified applicator, or their employees shall make and maintain records of all such inspection or monitoring activities. Such records shall be made available for inspection as provided for in 2 NCAC 34 .0328.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. August 3, 1992; January 1, 1989; August 1, 1980;

Temporary Amendment Eff. January 10, 1997;

Temporary Expired Eff. October 31, 1997;

Amended Eff. July 1, 1998.

.0605 CONTRACTUAL AGREEMENTS FOR WOOD-DESTROYING ORGANISMS

(a) All agreements for the control or prevention of wood-destroying organisms in existing structures shall be in writing and shall clearly set forth and include the following:

- (1) Date property was inspected and full name of the inspector;
- (2) Exact location of property inspected or treated;
- (3) Complete name and address of the property owner or his authorized agent;
- (4) Complete name and address of the licensee;
- (5) License number and phase(s) of the licensee and

full name of company licensee represents;

- (6) Signature of licensee or his authorized agent;
- (7) A foundation diagram or, if required or recommended by the label of the pesticide used, a site plan of the structure(s) or portions of such structure(s) inspected. The diagram or site plan shall clearly indicate and make full disclosure of:
 - (A) The location of individual water sources;
 - (B) Any visible evidence of wood-destroying organism infestation;
 - (C) Whether the infestation is active or inactive;
 - (D) The location of any visibly damaged timbers;
 - (E) Portions of the structure treated and not treated;
 - (F) The minimum number and proposed location(s) of bait or monitoring device placements, if applicable; and
 - (G) For treatment of wood-decay fungus infestations, the location and result of all moisture meter readings obtained pursuant to 2 NCAC 34 .0508.
- (8) The date upon which the written agreement is entered into and the period of time covered by the written agreement;
- (9) The written agreement must clearly indicate, by complete not abbreviated common name(s), the wood-destroying organism(s) to be controlled or prevented and the complete terms of the warranty to be issued, if any;
- (10) Whether or not reinspections are to be made and, if so, approximate time interval between, and renewal fees for same;
- (11) Conditions under which retreatments will be made;
- (12) Total price to be charged for treatment service and for repairs or excavations, where such are to be performed;
- (13) The written agreement, waiver (if applicable), and Wood-Destroying Insect Report or Wood-Destroying Organism Report, shall not show or include the address and telephone number of any licensee's representative or employee other than the address and telephone number of those specified in Subparagraphs (a)(3), (4), and (5) of this Rule;
- (14) Any licensee or business entity advertising to be bonded shall advise each customer, in writing, in the proposal, whether or not the warranty or written agreement will be covered by a bond of any type;
- (15) If the performance of the work is guaranteed by a bond, the agreement shall set forth those performance guarantees in wording identical to that in the bond itself;
- (16) 2 NCAC 34 .0501(a) shall also be followed;
- (17) Whether the written agreement or warranty may be transferred to subsequent owners of the property and the terms of any such transfer.

(b) A structure or structures covered by a written agreement or warranty for wood-destroying organism(s) treatment shall not knowingly be placed under an additional written

agreement or warranty for the same treatment while the first written agreement or warranty is still in effect without first obtaining a separate written acknowledgment of such signed by the property owner or authorized agent.

(c) When periodic reinspections or retreatments are specified in written agreements for the control or prevention of wood-destroying organisms, the licensee shall issue to the property owner or his authorized agent, after each reinspection or retreatment, a signed report of each reinspection or retreatment showing the condition of the property with respect to the presence or absence of wood-destroying organisms. A record of such reinspections and retreatments shall be kept in the file of the licensee. Such reports shall be subject to inspection by the enforcement agency or committee.

(d) All agreements for the control or prevention of wood-destroying organisms in buildings under construction shall be in writing and shall clearly set forth and include the following:

- (1) Date of final treatment and period of time covered by the written agreement;
- (2) Exact location of the treated property;
- (3) Complete name and address of the property owner or his authorized agent;
- (4) Complete name and address of the licensee;
- (5) License number and phase(s) of the licensee and full name of company licensee represents;
- (6) Signature of licensee or his authorized agent;
- (7) The written agreement must clearly indicate, by complete not abbreviated common name(s), the wood-destroying organism(s) to be controlled or prevented and the complete terms of the warranty to be issued, if any;
- (8) Whether or not reinspections are to be made and, if so, approximate time interval between, and renewal fees, if any, for same;
- (9) Conditions under which retreatments will be made;
- (10) Total price to be charged for treatment service;
- (11) Any licensee or business entity advertising to be bonded shall advise each customer, in writing, in the proposal, whether or not the warranty or written agreement will be covered by a bond of any type;
- (12) If the performance of the work is guaranteed by a bond, the agreement shall set forth those performance guarantees in wording identical to that in the bond itself;
- (13) 2 NCAC 34 .0604(a) shall also be followed;
- (14) Whether the written agreement or warranty may be transferred to subsequent owners of the property and the terms of any such transfer.

(e) If the licensee provides preventive treatment(s) for subterranean termites to a structure(s) for someone such as a builder or construction company who is constructing the building(s) for someone else or with the purpose of offering the building(s) for sale, the licensee may enter into a single master agreement with the builder to provide the preventive treatment(s) for subterranean termites. This single master agreement shall include the following:

- (1) Complete name and address of the builder or his

authorized agent:

- (2) That information required in Subparagraphs (d)(4), (5), (6), (7), (8), (9), (10), (11), (12), (13), and (14) of this Rule.
- (f) When a structure is treated under an agreement with a builder, the licensee shall:
 - (1) Following completion of the treatment and upon notification by the builder or buyer, issue a written agreement to the initial buyer. The written agreement issued to the buyer shall include the following:
 - (A) Complete name and address of the builder or his authorized agent as it appears on the builder's agreement;
 - (B) That information required in Subparagraphs (d)(1), (2), (3), (4), (5), (6), (7), (8), (9), (11), and (14) of this Rule. The builder shall be issued a copy of any written agreement issued the buyer.
 - (2) Maintain a record of each treatment performed on each structure to include the following information:
 - (A) Exact location of the structure treated;
 - (B) Date each treatment was performed;
 - (C) The portion(s) of the structure treated.

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Temporary Amendment Eff. January 10, 1997;

Temporary Expired Eff. October 31, 1997;

Amended Eff. July 1, 1998.

SECTION .0700 - HOUSEHOLD PESTICIDES

.0701 PRECAUTIONS

(a) Household pest control servicemen's kits which contain pesticides shall not be left where pets, domestic animals, children, or other unauthorized persons might remove, contact, or consume the contents.

(b) When "tamper-proof" or "tamper-resistant" bait stations are required by the label for acutely toxic rodenticidal baits, each bait station shall be locked and adequately marked with the skull and crossbones and the word "poison," both at least one inch high, and the name, address, and telephone number of the licensee, and name of the company the licensee represents.

(c) When "tamper-proof" or "tamper-resistant" bait stations are required by the label of rodenticides other than those in Paragraph (b) of this Rule, each bait station shall be marked with the EPA approved brand name and the signal word from the label.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. July 1, 1998; January 1, 1989; August 1, 1980.

.0703 WRITTEN RECORDS OF HOUSEHOLD PEST CONTROL

(a) Written records on the treatment for the control of all household pests shall be maintained by the licensee and made available for inspection at any time during regular business hours upon request from the Division. Such records shall include the following information:

- (1) Complete name(s) and address(es) of both the certified applicator, if different than the licensee, and licensee or their authorized representatives and the property owner(s) or his authorized representative(s);
- (2) Name and address of company represented by the certified applicator or licensee or their authorized representatives;
- (3) Address(es) of property(ies) treated, type(s) of treatment(s), and date(s) treatment(s) performed;
- (4) Common name(s) of pest(s) to be controlled or covered by the initial agreement or any subsequent treatments;
- (5) EPA approved brand name of pesticide used;
- (6) Information required by EPA;
- (7) Name of licensee, certified applicator, or registered technician making the application; and
- (8) For restricted use pesticides, Subparagraphs (a)(5), (6), and (7) of this Rule shall also be included on the customer's copy of the written agreement or service record.

(b) Noncommercial certified applicators shall maintain and make available for inspection the following records of pesticides applied:

- (1) EPA approved brand name of all pesticides applied;
- (2) Target pest(s);
- (3) Site of application;
- (4) Date of application;
- (5) Name of certified applicator or registered technician making the application; and
- (6) Information required by EPA.

(c) Records must be retained for two years beyond the last date of treatment.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. July 1, 1998; January 1, 1989; August 20, 1980; August 1, 1980.

SECTION .0800 - FUMIGATION

.0803 WRITTEN RECORDS OF FUMIGATION

(a) Written records shall be maintained on all fumigation operations and be made available for inspection, upon request, by the enforcement agency or Committee anytime during

regular business hours. Such records shall include the following information for each fumigation performed:

- (1) Complete name(s) and address(es) of both the certified applicator, if different than the licensee, and licensee or their authorized representatives and the property owner(s) or his authorized representative(s);
- (2) Name and address of company represented by the licensee or certified applicator or their authorized representative;
- (3) Address of property(ies) to be fumigated;
- (4) Common name(s) of pest(s) to be fumigated;
- (5) EPA approved common name of fumigant used;
- (6) EPA registration number of fumigant applied;
- (7) If a restricted-use pesticide is used, that information required by EPA;
- (8) Total amount of fumigant applied;
- (9) Name of licensee or certified applicator performing the fumigation;
- (10) For restricted use pesticides, Subparagraphs (a)(5), (6), (8), and (9) of this Rule shall also be included on the customer's copy of the written agreement or service record;
- (11) If the pest to be fumigated is a wood-destroying organism, all of 2 NCAC 34 .0605 shall be followed.

(b) Noncommercial certified applicators shall maintain the following records of pesticides applied:

- (1) EPA approved brand name of all fumigants applied;
- (2) EPA registration number of fumigant applied;
- (3) Total amount of fumigant applied;
- (4) Name of certified applicator performing the fumigation;
- (5) Target pest(s);
- (6) Exact site of application;
- (7) Date of application; and
- (8) Any information required by EPA.

(c) Records must be retained for two years beyond the last date of treatment or the expiration of the written agreement, if applicable.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. July 1, 1998; January 1, 1989; August 20, 1980; August 1, 1980.

SECTION .0900 - DUTIES AND RESPONSIBILITIES OF LICENSEE

.0902 FINANCIAL RESPONSIBILITY

(a) A licensee shall obtain and maintain financial responsibility in the form of a general liability insurance policy which covers operations in progress and completed operations. The insurance policy must provide coverage for all employees that work for the licensee. If an insurance policy is issued to a structural pest control company that employs more than one licensee and the policy otherwise

meets the standard set forth in this Rule. all licensees employed by the structural pest control company will be deemed to have insurance.

(b) The insurance policy required in Paragraph (a) of this Rule must provide the following minimum coverage:

- (1) Single limit
 - Property Damage \$100,000 Each Occurrence
 - Bodily Injury \$300,000 Each Occurrence
- (2) Combined single limit
 - \$300,000 Each Occurrence

(c) Each applicant for a license in any phase of structural pest control shall show evidence of his financial ability to properly indemnify persons suffering from the use or application of pesticides in the form of a Certificate of Insurance completed by the insurance company with the Division named as a certificate holder.

(d) The Certificate of Insurance shall clearly set forth the type of coverage, limits of liability, and any exclusions of the policy and shall have attached an endorsement which indicates that the policy provides coverage for any pollution or contamination occurring as a result of the use or application of any pesticide or shall state that such an endorsement has been issued with the policy.

(e) The license applicant shall be responsible for the submission of the Certificate of Insurance to the Division as specified in Paragraphs (c) and (d) of this Rule. No license shall be issued, reissued, or renewed until said Certificate of Insurance is received by the Division.

(f) The insurance policy(s) shall be with companies licensed, or otherwise approved to do business in North Carolina, by the NC Department of Insurance. The insurance policy shall be in full force and effect during the entire period covered by the license certificate. The license shall expire upon:

- (1) reduction of the available coverage under the policy below the minimum limits set forth in Paragraph (b) of this Rule;
- (2) cancellation of the policy; or
- (3) expiration of the policy.

Such expired license shall be reinstated only upon satisfactory proof that the licensee has obtained the required financial responsibility coverage.

(g) The licensee shall give the Division at least 10 days notice prior to the occurrence of the following:

- (1) cancellation of the policy;
- (2) material change in the policy; or
- (3) reduction of the available coverage under the policy below the minimum limits set forth in Paragraph (b) of this Rule.

(h) No structural pest control license shall be issued to any person where there exists an outstanding and unpaid final judgment against said person resulting from any civil suit arising out of damages suffered by a plaintiff as the result of a misuse of a pesticide by said person. Any current and valid structural pest control license shall become null and void 180 days following the imposition of a final judgment awarding damages to any plaintiff resulting from a civil suit arising out of losses suffered as the result of a pesticide misuse by the

holder of said license unless the final judgment is settled in full within said 180 days.

(i) Paragraphs (a) through (g) of this Rule shall not apply to any person holding an inactive license as defined by 2 NCAC 34 .0102(30).

History Note: Authority G.S. 106-65.37;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. July 1, 1998; November 2, 1992; January 1, 1989; August 1, 1983.

.0904 PROHIBITED ACTS

(a) No reference shall be made by any certified applicator, licensee, business establishment, or business entity in any form of advertising that would indicate approval, endorsement, or recommendation by the Committee or by any agency of the federal government or North Carolina State, county, or city government.

(b) The use of a structural pest control license(s), certified applicator's identification card(s), registered technician's identification card(s), or licensee identification card(s) for any purpose other than identification is prohibited.

(c) In solicitation of structural pest control business, no licensee or his employees shall claim that inspections or treatments are required, authorized, or endorsed by any agency of the federal government or North Carolina State, county, or city government unless said agency states that an inspection or treatment is required for a specific structure.

(d) No licensee shall advertise, in any way or manner, as a contractor for structural pest control services, in any phase(s) of work for which he does not hold a valid license(s) as provided for under G.S. 106-65.25(a), unless said licensee shall hold a valid certified applicator's identification card or registered technician's identification card, as provided for under G.S. 106-65.31, as an employee of a person who does hold a valid state license(s) covering phases of structural pest control work advertised.

(e) The impersonation of any North Carolina State, county, or city inspector or any other governmental official is prohibited.

(f) No licensee, certified applicator or registered technician's identification card holder shall advertise or hold himself out in any manner in connection with the practice of structural pest control as an entomologist, plant pathologist, horticulturist, public health engineer, sanitarian, unless such person shall be qualified in such field(s) by required professional and educational standards for the title used.

(g) No certified applicator, licensee, or his employees shall represent to any property owner or his authorized agent or occupant of any structure that any specific pest is infesting said property, structure, or surrounding areas thereof, unless strongly supporting visible evidence of such infestation exists.

(h) No certified applicator or licensee or their employees shall authorize, direct, assist, or aid in the publication, advertisement, distribution, or circulation of any material by false statement or representation concerning the licensee's structural pest control business or business of the company

with which he is employed.

(i) No certified applicator or licensee or their employees shall advertise or contract in a company name style contradictory to that shown on the certified applicator's identification card or license certificate.

(j) No certified applicator shall use any name style on his certified applicator's identification card which contains the words "exterminating"," pest control," or any other words which imply that he provides pest control services for a valuable consideration unless he is a licensee or a duly authorized agent or employee of a licensee.

(k) No licensee issued an inactive license shall engage in any phase of structural pest control under such inactive license.

(l) No licensee, certified applicator, or registered technician shall indicate on any foundation diagram prepared pursuant to 2 NCAC 34 .0601 or 2 NCAC 34 .0605 that hidden damage or possible hidden damage due to any wood-destroying organism exists in a structure unless there is visible evidence of infestation or damage present in the immediate area of the alleged hidden damage.

(m) No pesticide shall be applied for the purpose of performing structural pest control when the conditions at the site of application favor drift or runoff from the target site.

History Note: Filed as a Temporary Amendment Eff. July 10, 1995 for a period of 120 days or until the permanent rule becomes effective, whichever is sooner;

Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. July 1, 1998; November 1, 1995; January 1, 1991; January 1, 1989.

SECTION .1100 - INSPECTION FEES

.1101 RIGHTS OF ENFORCEMENT

(a) The enforcement agency and the member of the Attorney General's staff assigned to the Committee shall have, during regular business hours, the right to see, examine, and inspect those records, chemicals, and such equipment as may be deemed necessary to the structural pest control operations of said person within the provisions of these Rules and Regulations and the Structural Pest Control Law.

(b) The enforcement agency or any member of the Committee may in its discretion inspect any properties treated by structural pest control licensees or certified applicators for pests for the purpose of determining the efficiency of the remedial measures applied and to determine if treatment(s) comply with the requirements set forth in these Rules and Regulations.

(c) When requested by the Division or Committee, the licensee or certified applicator shall furnish for analyses, sufficient samples of pesticides or other chemicals used in treating for structural pests and shall provide copies, or allow the copying, of such records as may be deemed necessary by the Division or Committee to document the use or application of pesticides or performance of work within the provisions of

these Rules and the Structural Pest Control Law.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. July 1, 1998.

TITLE 7 - DEPARTMENT OF CULTURAL RESOURCES

CHAPTER 4 - DIVISION OF ARCHIVES AND HISTORY

SUBCHAPTER 4R - ARCHAEOLOGY AND HISTORIC PRESERVATION SECTION

SECTION 0900 - TAX ACT CERTIFICATION REVIEW

.0909 SCOPE OF RULES AND OVERVIEW OF STATUTORY AUTHORITY

(a) Rules .0901 - .0908 of this Section relate to recommendations made by the State Historic Preservation Officer (SHPO) to the Secretary of the Interior in connection with federal tax incentives involving the rehabilitation of income-producing historic properties.

(b) The SHPO makes certifications of historic significance and certifications of rehabilitation in connection with state tax incentives involving the rehabilitation of non-income-producing historic properties. The rules .0909 - .0915 are applicable to these certifications.

(c) The procedures for obtaining certifications are set forth in Rules .0909 - .0915 of this Section. Owners wishing certifications shall provide sufficient documentation to the SHPO to make certification decisions. These procedures shall be applicable to future and pending certification requests except as otherwise provided herein.

(d) Requests for certifications and approvals of proposed rehabilitation work shall be sent by an owner to the SHPO for review. All certification decisions shall be made by the SHPO based upon review by HPO staff of the application and supporting documentation.

History Note: Authority G.S. 105-130.42; 105-151.23;

Temporary Adoption Eff. January 1, 1998;

Eff. August 1, 1998.

.0910 DEFINITIONS

For purposes of Rules .0909 through .0916 of this Section, the following definitions shall apply:

- (1) "Certification" means the process established by these Rules to determine the historic significance of properties within National Register or certified historic districts as well as to approve proposed and completed rehabilitation work.
- (2) "Certified Historic District" means any district

which is:

- (a) designated under a local ordinance which has been certified by the Secretary of the Interior as containing criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of historic significance to the district; and
 - (b) certified by the Secretary of the Interior as meeting substantially all of the requirements for the listing of districts in the National Register of Historic Places.
- (3) "Certified Historic Structure" means a structure which is either:
- (a) individually listed in the National Register of Historic Places; or
 - (b) located in a National Register or certified historic district and certified by the SHPO as being of historic significance to the district.

Portions of larger buildings, such as single condominium apartment units, shall not be considered to be individual structures. Rowhouses, even with abutting or party walls, shall be considered as separate buildings. For purposes of the certification decisions set forth in these rules, a certified historic structure encompasses the historic building and its site, landscape features, and environment, generally referred to herein as a "property" as defined below.

- (4) "Department of the Interior" means the United States Department of the Interior.
- (5) "Historic District" means a geographically definable area, urban or rural, possessing a significant concentration, linkage or continuity of sites, buildings, structures or objects united historically or aesthetically by plan or physical development. A district may also comprise individual elements separated geographically but linked by association or history.
- (6) "Inspection" means a visit by the HPO to a historic structure for the purposes of reviewing and evaluating the significance of the structure and the proposed, ongoing, or completed rehabilitation work.
- (7) "National Park Service" (NPS) means the division within the United States Department of the Interior responsible for administering national parks and historic preservation programs.
- (8) "National Register Historic District" means any district listed in the National Register of Historic Places.
- (9) "National Register Nomination" means the documentation for a resource that includes the National Register Nomination Form NPS 10-900 with accompanying continuation sheets, maps, and photographs and that is prepared in accord with requirements and guidance in the NPS publication *How to Complete the National Register*

Registration Form: Bulletin 164 and in other NPS technical publications on the subject.

- (10) "National Register of Historic Places" means the official federal roster of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, engineering, and culture that the Secretary of the Interior is authorized to expand and maintain pursuant to the National Historic Preservation Act of 1966, as amended (often referred to as the "National Register").
- (11) "Owner" means a person, partnership, corporation, or public agency holding a fee-simple interest in a property or any other person or entity recognized by the North Carolina Department of Revenue for purposes of the applicable tax benefits.
- (12) "Property" means a building(s) and its site and landscape features.
- (13) "Rehabilitation" means the process of returning a building or buildings to a state of utility, through repair or alteration, which makes possible an efficient use while preserving those portions and features of the building and its site and environment which are significant to its historic, architectural, and cultural values as determined by the SHPO.
- (14) "Secretary of the Interior" means the Secretary of the United States Department of the Interior or the designee authorized to carry out his/her responsibilities.
- (15) "Standards for Rehabilitation" means the Secretary of the Interior's "Standards for Rehabilitation" as cited in the Code of Federal Regulations, 36 CFR 67.
- (16) "State Historic Preservation Office" (HPO) means the section within the North Carolina Division of Archives and History responsible for administering historic preservation programs.
- (17) "Structure" means something built or constructed such as a building or dam. However, sites, landscapes, and objects do not qualify as structures.

History Note: Authority G.S. 105-130.42; 105-151.23;

Temporary Adoption Eff. January 1, 1998;

Eff. August 1, 1998.

.0911 INTRODUCTION TO HISTORIC PRESERVATION CERTIFICATIONS AND INFORMATION COLLECTION

(a) Ordinarily, only the fee-simple owner of the property in question may apply for the historic preservation certifications described in Rules .0912 and .0914 in this Section. If an application for a certification is made by someone other than the fee-simple owner, however, the application must be accompanied by a written statement from the fee-simple owner indicating that he or she is aware of the application and has no objection to the request for certification.

(b) Owners of properties which are not yet individually listed in the National Register of Historic Places or which are

in areas that are not yet National Register or certified historic districts may obtain certifications from the SHPO on whether or not rehabilitation proposals meet the "Standards for Rehabilitation" and proceed with the rehabilitation prior to the listing of the individual property or district in the National Register. Because final certifications of rehabilitation will be issued only to owners of certified historic structures, properties must be individually listed in the National Register or be located within National Register or certified historic districts by the time a request for final certification is submitted to the SHPO. Similarly, if a property is located in a National Register or certified historic district but outside the district's period of significance, the National Register nomination or certification report for the district must be amended to expand the period of significance by the time a request for final certification is submitted to the SHPO.

(c) Applications for certifications of proposed rehabilitation, historic significance, and completed rehabilitation shall be submitted on the Historic Preservation Certification Application. Two copies of the application and supporting documentation such as photographs and plans are required. The applicant may obtain a preliminary and non-binding determination of a property's historic significance within a National Register or certified historic district prior to undertaking a rehabilitation project.

(d) Applications are available from the HPO.

(e) Requests for certifications and approvals of proposed rehabilitation projects shall be sent to the HPO.

(f) Where adequate documentation is not provided, the owner will be notified in writing of the additional information needed to undertake or complete the review. At such time the application shall be placed on hold pending the receipt of complete information. If complete information is not received within 30 days from the date of the request to the owner, the application shall be returned to the owner due to insufficient documentation.

(g) Approval of applications and amendments to applications shall be conveyed to the owner only in writing by the SHPO or his/her duly authorized representative. Decisions with respect to certifications shall be made on the basis of the descriptions contained in the application forms and other available information. In the event of any discrepancy between the application and other supplementary material submitted with it (such as architectural plans, drawings, specifications, etc.), the applicant shall be requested to resolve the discrepancy in writing. In the event the discrepancy is not resolved, the description in the application shall take precedence.

History Note: Authority G.S. 105-130.42; 105-151.23; Temporary Adoption Eff. January 1, 1998; Eff. August 1, 1998.

.0912 CERTIFICATIONS OF HISTORIC SIGNIFICANCE

(a) Requests for determinations of historic significance for properties within National Register or certified historic districts shall be made by the owner to determine:

- (1) that a property located within a National Register or a certified historic district contributes to the historic significance to the district and is, therefore, a "certified historic structure"; or
- (2) that a property located within a National Register or certified historic district is not of historic significance to the district.

(b) The owner may contact the HPO to determine whether or not a property is individually listed in the National Register of Historic Places or is located within a National Register or certified historic district.

(c) If a property is located within the boundaries of a National Register or certified historic district and the owner seeks certification by the SHPO that the property contributes to the historic significance of the district, the owner must provide the following documentation for determination of historic significance and submit it with the request for final certification:

- (1) Name and address of property.
- (2) Current photographs of property including photographs of the building and its site and landscape features; photograph(s) showing the property along with adjacent properties and structures on the street; and photographs of interior features and spaces adequate to document significance.
- (3) Brief written description of physical appearance including distinctive features and spaces, any alterations, and date(s) of construction.
- (4) Brief statement of significance summarizing how the property does or does not reflect the values that give the district its distinctive historical and visual character, and explaining any significance attached to the property itself (e.g., unusual building techniques, important event that took place there, etc.).
- (5) Map of the historic district clearly delineating property's location within the district.

(d) Properties in National Register or certified historic districts containing more than one building where the buildings are judged by the SHPO to have been functionally related historically to serve an overall purpose, such as a mill complex or a residence and carriage house, shall be treated as a single certified historic structure when rehabilitated as part of an overall project. Buildings that are functionally related historically are those which have functioned together to serve an overall purpose during the property's period of significance. An evaluation shall be made to determine whether the component buildings contribute to the historic significance of the property and whether the property contributes to the significance of the historic district.

(e) If a building is to be moved as part of a rehabilitation for which certification is sought, the owner must follow the procedures outlined in this Paragraph. When a building is moved, every effort shall be made to re-establish its historic orientation, immediate setting, and general environment. Moving a building within a National Register or certified historic district may result in denial of a certification of

historic significance.

- (1) Documentation must be submitted that demonstrates:
 - (A) the effect of the move on the building's integrity and appearance (any demolition, changes in foundations, etc.);
 - (B) photographs of the original site and general environment of the new site;
 - (C) evidence that the new site does not possess historical significance that would be adversely affected by the moved building;
 - (D) the effect of the move on the distinctive historical and visual character of the district, where applicable; and
 - (E) the method of moving the building.
- (2) If an owner moves a building into a National Register or certified historic district or moves a building elsewhere within a district, the required information described in Subparagraph (e)(1) shall be included. The moved building shall be evaluated to determine if it contributes to the historic significance of the district both before and after the move as in Paragraph (f) of this Rule. The owner may obtain a preliminary and non-binding determination that a building proposed to be moved will contribute to the historic significance of the district after the move.

(f) Properties within National Register or certified historic districts shall be evaluated to determine if they contribute to the historic significance of the district by application of the "Standards for Evaluating Significance within National Register or Certified Historic Districts" as set forth in Rule .0913 of this Section.

(g) Once the significance of a property located within a National Register or certified historic district has been determined by the SHPO, written notification shall be sent to the owner.

History Note: Authority G.S. 105-130.42; 105-151.23; Temporary Adoption Eff. January 1, 1998; Eff. August 1, 1998.

.0914 CERTIFICATIONS OF REHABILITATION

(a) Owners who want rehabilitation projects for certified historic structures to be certified by the SHPO as being consistent with the "Standards for Rehabilitation" shall comply with the procedures listed in this Rule.

- (1) The proposed project work must be approved by the SHPO prior to undertaking rehabilitation work. To initiate review of a rehabilitation project for certification purposes, an owner shall submit an application to the SHPO. In all cases, documentation, including photographs adequate to document the appearance of the structure(s), both on the exterior and on the interior, and its site and environment prior to rehabilitation must accompany the application. The social security or taxpayer identification number(s) of all owners must be

provided in the application. Other documentation, such as cleaning specifications, surveys of window conditions, or documentation of deterioration, may be required by the SHPO to evaluate rehabilitation projects. Plans for any attached, adjacent, or related new construction must also accompany the application. Because the circumstances of each rehabilitation project are unique to the particular certified historic structure involved, certifications that may have been granted to other rehabilitations are not specifically applicable and may not be relied on by owners as applicable to their projects.

- (2) A project does not become a certified rehabilitation until it is completed by the owner and certified by the SHPO. The owner shall submit the request for final certification and provide the project completion date and a signed statement that the completed rehabilitation project meets the "Standards for Rehabilitation" and is consistent with project work previously approved. Also required in requesting certification of a completed rehabilitation project are costs attributed to the rehabilitation, photographs adequate to document the completed rehabilitation, and the social security or taxpayer identification number(s) of all owners.

(b) A rehabilitation project for certification purposes encompasses all work on the interior and exterior of the certified historic structure(s) and its site and environment as determined by the SHPO, as well as related demolition, new construction or rehabilitation work which may affect the historic qualities, integrity or landscape features, and environment of the certified historic structure(s). More specific considerations in this regard are as follows:

- (1) In order to receive certification, all elements of the rehabilitation project must meet the "Standards for Rehabilitation." Portions of the rehabilitation project not in conformance with the "Standards for Rehabilitation" shall not be exempted and certification shall be denied. An owner undertaking a rehabilitation project shall not be held responsible for prior work not part of the current project and undertaken prior to January 1, 1998. An owner undertaking a rehabilitation project shall not be held responsible for work that was undertaken by previous owners or third parties, who have no business or immediate family relationship to the owner either at the time of the previous work or at the time the application is made.
- (2) If the SHPO has reason to believe that a project submitted for certification does not include the entire rehabilitation project subject to review hereunder, the SHPO may choose to withhold a decision on such a certification until such time as the proper scope of the rehabilitation project to be reviewed has been determined. Factors to be taken into account by the SHPO in this regard include, but are not limited to, the facts and circumstance of each application and:

- (A) whether previous demolition, construction, or rehabilitation work irrespective of ownership or control at the time was in fact undertaken as part of the rehabilitation project for which certification is sought, and
 - (B) whether property conveyances, reconfigurations, ostensible ownership transfers, or other transactions were transactions which purportedly limit the scope of a rehabilitation project for the purpose of review by the SHPO without substantially altering beneficial ownership or control of the property. The fact that a property may still qualify as a certified historic structure after having undergone inappropriate rehabilitation, construction, or demolition work does not preclude the SHPO from determining that such inappropriate work is part of the rehabilitation project to be reviewed.
- (3) Conformance to the "Standards for Rehabilitation" shall be determined on the basis of the application documentation and other available information by evaluating the property as it existed prior to the commencement of the rehabilitation project.
- (4) For rehabilitation projects involving more than one certified historic structure where the structures are judged by the SHPO to have been functionally related historically to serve an overall purpose, such as a mill complex or a residence and carriage house, rehabilitation certification shall be issued on the merits of the overall project rather than for each structure or individual component. For rehabilitation projects where there is no historic functional relationship among the structures, the certification decision shall be made for each separate certified historic structure regardless of how they are grouped for ownership or development purposes.
- (5) Demolition of a building as part of a rehabilitation project involving multiple buildings may result in denial of certification of the rehabilitation. In projects where there is no historic functional relationship among the structures being rehabilitated, related new construction which physically expands one certified historic structure undergoing rehabilitation and, therefore, directly causes the demolition of an adjacent structure will generally result in denial of certification of the rehabilitation unless a determination has been made that the building to be demolished is not a certified historic structure. In rehabilitation projects where the structures have been determined to be functionally related historically, demolition of a component may be approved, in limited circumstances, when:
- (A) the component is outside the period of significance of the property;
 - (B) the component is so deteriorated or altered that its integrity has been irretrievably lost; or
 - (C) the component is a secondary one that generally lacks historic, engineering, or architectural significance or does not occupy a major portion of the site and persuasive evidence is present to show that retention of the component is not technically or economically feasible.
- (6) In situations involving the rehabilitation of a certified historic structure in a historic district, the SHPO shall review the rehabilitation project first as it affects the certified historic structure and second as it affects the district and make a certification decision accordingly.
- (7) In the event that an owner of a portion of a certified historic structure requests certification for a rehabilitation project related only to that portion of the structure, but there is or was a larger related rehabilitation project(s) occurring with respect to other portions of the certified historic structure, the SHPO's decision on the requested certification shall be based on review of the overall rehabilitation project(s) for the certified historic structure.
- (c) Upon receipt of a complete application describing the rehabilitation project, the SHPO shall determine if the project is consistent with the "Standards for Rehabilitation." If the proposed project does not meet the "Standards for Rehabilitation," the owner shall be advised of that fact in writing and, where possible, shall be advised of necessary revisions, in the form of conditions, that will bring the proposed rehabilitation project into compliance with the Standards.
- (d) Once a proposed project has been approved, substantive changes in the work as described in the application must be brought promptly to the attention of the SHPO by written statement to ensure continued conformance to the Standards. The SHPO shall notify the owner in writing whether the revised project continues to meet the Standards. Oral approvals of revisions are not authorized or valid.
- (e) Completed projects may be inspected by the HPO to determine if the work meets the "Standards for Rehabilitation."
- (f) If a completed rehabilitation project does not meet the "Standards for Rehabilitation," an explanatory letter from the SHPO or his/her duly authorized representative shall be sent to the owner. If a property was not rehabilitated in conformance with the "Standards for Rehabilitation" and the nonconforming work appears to have resulted in the loss of the qualities for which the property or the district in which it is located was listed in the National Register, the SHPO, as administrator of the National Register program in North Carolina, shall notify the National Register of Historic Places in accord with the Code of Federal Regulations.
- History Note: Authority G.S. 105-130.42; 105-151.23; Temporary Adoption Eff. January 1, 1998;*

Eff. August 1, 1998.

.0915 STANDARDS FOR REHABILITATION

(a) The North Carolina Historical Commission interprets the "Standards for Rehabilitation" to require that the quality of materials and craftsmanship used in a rehabilitation project must be commensurate with the quality of materials and craftsmanship of the historic building in question. Certain treatments, if improperly applied, or certain materials by their physical properties, may cause or accelerate physical deterioration of historic buildings. Inappropriate physical treatments include, but are not limited to: damaging masonry repointing techniques; exterior cleaning methods such as sandblasting or damaging water pressure; or the introduction of sealers or "non-breathable" materials on masonry surfaces, insulation, storm windows, and epoxy where the application of such treatments or materials does not conform to NPS *Guidelines for Rehabilitating Historic Buildings* and NPS "Preservation Briefs." Nonconforming use of these materials and treatments may result in denial of certification. Similarly, exterior additions that duplicate the form, material, and detailing of the structure to the extent that they compromise the historic character of the structure shall result in denial of certification.

Other typical denial issues in which the historic integrity of the structure is compromised include but are not limited to the following: removal of character defining historic exterior/interior materials and features such as doors, windows, woodwork, and significant landscape features; excessive site paving; installing undocumented or non-period features; excessive alteration of exterior/interior features or spaces; removal of plaster from interior masonry walls to expose underlying masonry surface; installation of inappropriate replacement doors and windows such as metal or vinyl clad windows in place of wood windows; replacement of non-deteriorated or repairable materials such as windows or millwork; painting unpainted masonry surfaces; installation of artificial siding.

(b) In limited cases, it may be necessary to dismantle and rebuild portions of a certified historic structure to stabilize and repair weakened structural members and systems. In such cases, the SHPO shall consider such extreme intervention as part of a certified rehabilitation if:

- (1) the necessity for dismantling is justified in supporting documentation;
- (2) significant architectural features and overall design are retained; and
- (3) adequate historic materials are retained to maintain the architectural and historic integrity of the overall structure. The "Standards for Rehabilitation" require retention of distinguishing historic materials of external and internal walls as well as structural systems. In limited instances, rehabilitations involving removal of existing external walls, i.e., external walls that detract from the historic character of the structure such as in the case of a nonsignificant later addition or walls that have lost their structural integrity due to deterioration, may

be certified as meeting the "Standards for Rehabilitation."

History Note: Authority G.S. 105-130.42; 105-151.23; Temporary Adoption Eff. January 1, 1998; Eff. August 1, 1998.

TITLE 10 - DEPARTMENT OF HEALTH AND HUMAN SERVICES

CHAPTER 3 - FACILITY SERVICES

SUBCHAPTER 3U - CHILD DAY CARE STANDARDS

SECTION .0300 - PROCEDURES FOR OBTAINING A LICENSE FOR A CHILD CARE CENTER

.0302 APPLICATION FOR A LICENSE FOR A CHILD CARE CENTER

(a) The individual who will be legally responsible for the operation of the center, which includes assuring compliance with the licensing law and standards, shall apply for a license using the form provided by the Division. If the operator will be a group, organization, or other entity, an officer of the entity who is legally empowered to bind the operator shall complete and sign the application.

(b) The applicant shall arrange for inspections of the center by the local health, building and fire inspectors. The applicant shall provide an approved inspection report signed by the appropriate inspector to the Division representative.

- (1) A provisional classification may be accepted in accordance with Rule .0401(1) of this Subchapter.
- (2) When a center does not conform with a specific building, fire, or sanitation standard, the appropriate inspector may submit a written explanation of how equivalent, alternative protection is provided. The Division may accept the inspector's documentation in lieu of compliance with the specific standard. Nothing in this Regulation is to preclude or interfere with issuance of a provisional license pursuant to Section .0400 of this Subchapter.

(c) The applicant, or the person responsible for the day-to-day operation of the center, shall be able to describe the plans for the daily program, including room arrangement, staffing patterns, equipment, and supplies, in sufficient detail to show that the center will comply with applicable requirements for activities, equipment, and staff/child ratios for the capacity of the center and type of license requested. The applicant shall make the following written information available to the Division for review to verify compliance with provisions of this Subchapter and the licensing law:

- (1) daily schedules,
- (2) activity plans,
- (3) emergency care plan,
- (4) discipline policy,
- (5) incident reports.

- (6) incident logs,
- (7) a copy of the certified criminal history check for the applicant, or the applicant's designee as defined in Rule .2701(g) of this Subchapter, from the Clerk of Superior Court's office in the county or counties where the individual has resided during the previous 12 months.

(d) The applicant shall, at a minimum, demonstrate to the Division representative that measures will be implemented to have the following information in the center's files and readily available to the representative for review:

- (1) Staff records which include an application for employment and date of birth; documentation of previous education, training, and experience; medical and health records; documentation of participation in training and staff development activities; and required criminal records check documentation;
- (2) Children's records which include an application for enrollment; medical and immunization records; and permission to seek emergency medical care;
- (3) Daily attendance records;
- (4) Records of monthly fire drills giving the date each drill is held, the time of day, the length of time taken to evacuate the building, and the signature of the person that conducted the drill;
- (5) Records of monthly playground inspections documented on a checklist provided by the Division; and
- (6) Records of medication administered.

(e) The Division representative shall measure all rooms to be used for child care and shall assure that an accurate sketch of the center's floor plan is part of the application packet. The Division representative shall enter the dimensions of each room to be used for child care, including ceiling height, and shall show the location of the bathrooms, doors, and required exits on the floor plan.

(f) The Division representative shall make one or more inspections of the center and premises to assess compliance with all applicable standards.

- (1) If the center is in compliance, the Division shall issue the license.
- (2) If the center does not comply, the representative may recommend issuance of a provisional license in accordance with Section .0400 of this Subchapter or the representative may recommend denial of the application. Final disposition of the recommendation to deny is the decision of the Division.
- (3) The license shall be displayed in an area that parents are able to view daily.

(g) If a person applies for a child care facility license after any child care facility license held by that person has been revoked or summarily suspended by the Division within the previous 12 months, or during the appeal if a person appeals the Division's revocation or summary suspension, the Division may deny the application for another license based on the compliance history of the person applying for a license.

History Note: Authority G.S. 110-88(2); 110-88(5); 110-91; 110-92; 110-93; 110-99; 143B-168.3;

Eff. January 1, 1986;

Amended Eff. July 1, 1998; January 1, 1996; November 1, 1989; July 1, 1988; January 1, 1987.

SECTION .0700 - REQUIREMENTS FOR CENTER STAFF

.0704 PRESERVICE REQUIREMENTS FOR ADMINISTRATORS

(a) A child care administrator who has not met the staff qualifications required by G.S. 110-91(8) shall meet the requirements in this Rule prior to exercising any child caring responsibilities.

- (1) Have either a high school diploma or its equivalent; and
- (2) Have two years of full-time verifiable work experience in a child care center or early childhood work experience; or an undergraduate, graduate, or associate degree, with at least 12 semester hours in child development, child psychology, early childhood education or directly related field; or a Child Development Associate Credential; or completion of a community or technical college curriculum program in the area of child care or early childhood; or one year of full-time verifiable child care or early childhood work experience and a North Carolina Early Childhood Credential; and
- (3) Have verification of having successfully completed, or be currently enrolled in, two semester credit hours, or 32 clock hours, of training in the area of early childhood program administration; or, have one year experience performing administrative responsibilities; or

(b) An administrator who does not meet the requirements of Paragraph (a) of this Rule may share the requirements in Paragraph (a) of this Rule with another individual, provided that prior to exercising child caring responsibilities, the individual who is responsible for planning and implementing the daily program at the center to comply with Sections .0500 and .0600 of this Subchapter shall be a full-time staff person on-site who meets Subparagraphs (a)(1) and (2) of this Rule, and the other individual shall meet Subparagraph (a)(3) of this Rule and be either on-site or off-site.

(c) Any person who is at least 21 years old and literate who was employed as an on-site administrator in a child care program on or before September 1, 1986, shall be exempt from the provisions of Paragraphs (a) and (b) of this Rule, as long as the person is employed by the same operator.

History Note: Authority G.S. 110-91(8); 143B-168.3;

Eff. January 1, 1986;

Amended Eff. July 1, 1998; April 1, 1997; November 1, 1989; July 1, 1988; January 1, 1987.

.0710 PRESERVICE REQUIREMENTS FOR LEAD TEACHERS, TEACHERS AND AIDES

If an individual already has a North Carolina Early Childhood Credential or its equivalent, none of the requirements of this Rule shall apply. If an individual does not have a North Carolina Early Childhood Credential or its equivalent, the requirements of this Rule shall be met.

- (1) A lead teacher or a teacher shall be at least 18 years of age, have a high school diploma or its equivalent, and have at least one of the following:
 - (a) One year of verifiable child care experience working in a child care center or two years of verifiable experience as a licensed family child care home operator; or
 - (b) Successful completion of a two year high school Child Care Services Occupational Home Economics Program; or
 - (c) Twenty hours of training in child development, which could include the North Carolina Early Childhood Credential coursework, within the first six months of employment in addition to the number of annual inservice training hours required in Rule .0707 of this Section.
- (2) An aide is a person who assists the lead teacher or the teacher in planning and implementing the daily program, and shall be at least 16 years old and literate.
- (3) Individuals employed prior to July 1, 1998 are exempted from the requirements of this Rule, as long as they remain employed by the same operator.

History Note: Authority G.S. 110-91(8); 143B-168.3; Eff. July 1, 1988; Amended Eff. July 1, 1998; April 1, 1997; October 1, 1991; November 1, 1989.

SECTION .0800 - HEALTH STANDARDS FOR CHILDREN IN CENTERS

.0806 TOILETING, CLOTHING AND LINENS

- (a) Diapers will be changed whenever they become soiled or wet and not on a shift basis.
- (b) There must be clean clothes available so that when the clothes worn by a child becomes wet or soiled the child has clean clothes to put on. The change of clothing may be provided by the center or by the child's parents.
- (c) A supply of clean linen must be on hand so that linens can be changed whenever they become soiled or wet.
- (d) Staff shall not force children to use the toilet and staff shall consider the developmental readiness of each individual child during toilet training.

History Note: Authority G.S. 110-91(1); 143B-168.3; Eff. January 1, 1986; Amended Eff. July 1, 1998; November 1, 1989.

SECTION .1700 - FAMILY CHILD CARE HOME STANDARDS

.1702 APPLICATION FOR A LICENSE FOR A FAMILY CHILD CARE HOME

- (a) Any person who plans to operate a family child care home shall apply for a license using a form provided by the Division. The applicant shall submit the completed application, which complies with the following, to the Division:
 - (1) Only one licensed family child care home shall operate at the location address of any home.
 - (2) The applicant shall list each location address where a licensed family child care home will operate.
- (b) When a family child care home will operate at more than one location address by cooperative arrangement among two or more families, the following procedures shall apply:
 - (1) One parent whose home is used as a location address shall be designated the coordinating parent and shall co-sign the application with the applicant.
 - (2) The coordinating parent is responsible for knowing the current location address at all times and shall provide the information to the Division upon request.
- (c) The operator shall assure that the structure in which the family child care home is located complies with the following requirements:
 - (1) Comply with the North Carolina Building Code for family child care homes or have written approval for use as a family child care home by the local building inspector as follows:
 - (A) Meet Volume 1-B Uniform Residential Building Code or be a manufactured home bearing a third party inspection label certifying compliance with the Federal Manufactured Home Construction and Safety Standards or certifying compliance with construction standards adopted and enforced by the State of North Carolina. Homes shall be installed in accordance with North Carolina Manufactured Mobile Home Regulations published by the NC Department of Insurance.
Exception: Single wide manufactured homes will be limited to a maximum of three preschool-aged children (not more than two may be two years of age or less) and two school-aged children.
 - (B) All children shall be kept on the ground level with an exit at grade.
 - (C) All homes shall be equipped with an electrically operated (with a battery backup) smoke detector, or one electrically operated and one battery operated smoke detector located next to each other.
 - (D) All homes shall be provided with at least one five lb. 2-A:10-B:C type extinguisher readily accessible for every 2,500 square feet of floor area.
 - (E) Fuel burning space heaters, fireplaces and floor furnaces which are listed and approved

for that installation and are provided with a protective screen attached securely to substantial supports will be allowed. However, unvented fuel burning heaters and portable electric space heaters of all types are prohibited.

- (2) Assure that all indoor areas used by children are heated in cool weather and ventilated in warm weather.
- (3) Cover or insulate hot pipes or radiators which are accessible to the children.

(d) The applicant shall also submit supporting documentation with the application for a license to the Division. The supporting documentation shall include a copy of the applicant's certified criminal history check from the Clerk of Superior Court's office in the county or counties where the individual has resided during the previous 12 months; a copy of documentation of completion of a first aid and cardiopulmonary resuscitation (CPR) course; proof of negative results of the applicant's tuberculosis test completed within the past 12 months; a completed health questionnaire; a copy of current pet vaccinations for any pet in the home; a negative well water bacteriological analysis if the home has a private well; copies of any inspections required by local ordinances; and any other documentation required to support the issuance of a license required by the Division.

(e) Upon receipt of an acceptable application and supporting documentation as required by the Division, a Division representative shall make an announced visit to each home unless the applicant meets the criteria in Paragraph (g) of this Rule to determine compliance with the standards, to offer technical assistance when needed, and to provide information about local resources.

- (1) If the home is found to be in compliance with the applicable requirements of G.S. 110 and this Section, a license shall be issued.
- (2) If the home is not in compliance but has the potential to comply, the Division representative shall establish with the operator a reasonable time period for the home to achieve full compliance. If the Division representative determines that the home is in compliance within the established time period, a license shall be issued.
- (3) If the home is not in compliance, cannot potentially comply, or fails to comply within the appropriate time, the Division shall deny the application. Final disposition of the recommendation to deny is the decision of the Division.

(f) In emergency situations as determined by the Division, the Division may allow the applicant to temporarily operate prior to the Division representative's visit described in Paragraph (e) of this Rule. A person is not able to operate legally until he or she has received from the Division either temporary permission to operate or a license.

(g) If a person applies for a child care facility license after any child care facility license held by that person has been revoked or summarily suspended by the Division within the previous 12 months, or during the appeal if a person appeals

the Division's revocation or summary suspension, the Division may deny the application for another license based on the compliance history of the person applying for a license.

(h) Use of the license is limited to the following conditions:

- (1) The license cannot be bought, sold, or transferred from one individual to another.
- (2) The license is valid only for the location address/addresses listed on it.
- (3) The license must be returned to the Division in the event of termination or revocation.
- (4) The license shall be displayed in a prominent place that parents are able to view daily and shall be shown to each child's parent, guardian, or custodian when the child is enrolled.

(i) A licensee is responsible for notifying the Division whenever a change occurs which affects the information shown on the license.

History Note: Authority G.S. 110-88(5); 110-91; 110-93; 110-99; 143B-168.3;

Eff. January 1, 1986;

Amended Eff. July 1, 1998; January 1, 1991; November 1, 1989; January 1, 1987.

.1720 SAFETY AND SANITATION REQUIREMENTS

(a) To assure the safety of children in care, the operator shall:

- (1) separate firearms from ammunition and keep both in locked storage.
- (2) keep items used for starting fires, such as matches and lighters, out of the children's reach.
- (3) keep all medicines in locked storage.
- (4) keep hazardous cleaning supplies and other items that might be poisonous, e.g., toxic plants, out of reach or in locked storage when children are in care.
- (5) keep first-aid supplies in a place easily accessible to the operator.
- (6) ensure the equipment and toys are in good repair and are developmentally appropriate for the children in care.
- (7) have a working telephone within the family child care home. Telephone numbers for the fire department, law enforcement office, emergency medical service, and poison control center shall be posted near the telephone.
- (8) have access to a means of transportation that is always available for emergency situations.
- (9) be able to recognize common symptoms of illnesses.

(b) No drug or medication shall be administered to any child without specific instruction's from the child's parent, a physician, or other authorized health professional.

- (1) Prescribed medicine shall be in its original container bearing the pharmacist's label which lists the child's name, date the prescription was filled, the physician's name, the name of the medicine or

the prescription number, and directions for dosage, or be accompanied by written instructions for dosage, bearing the child's name, which are dated and signed by the prescribing physician or other health professional. Prescribed medicine shall be administered only to the person for whom it is prescribed.

- (2) Over-the-counter medicines, such as cough syrup, decongestant, acetaminophen, ibuprofen, topical teething medication, topical antibiotic cream for abrasions, or medication for intestinal disorders shall be in its original container and shall be administered as authorized in writing by the child's parent, not to exceed amounts and frequency of dosage specified in the printed instructions accompanying the medicine. The parent's authorization shall give the child's name, the specific name of the over-the counter medicine, dosage instructions, the parent's signature, and the date signed. Over-the counter medicine may also be administered in accordance with instructions from a physician or other authorized health professional.
- (3) When any questions arise concerning whether medication provided by the parent should be administered, that medication shall not be administered without signed, written dosage instructions from a licensed physician or authorized health professional.
- (4) A written statement from a parent may give blanket permission for up to six months to authorize administration of medication for asthma and allergic reactions. A written statement from a parent may give blanket permission for up to one year to authorize administration of topical ointments such as sunscreen and over-the-counter diapering creams. The written statement shall describe the specific conditions under which the medication and creams are to be administered and detailed instructions on how they are to be administered. A written statement from a parent may give blanket permission to administer a one-time, weight appropriate dose of acetaminophen in cases where the child has a fever and the parent can not be reached.
- (5) Any medication remaining after the course of treatment is completed shall be returned to the child's parents.
- (6) Any time the operator administers medication other than sunscreen and diapering creams to any child in care, the child's name, the date, time, amount and type of medication given, and the signature of the operator shall be recorded. This information shall be noted on a form provided by the Division or on a separate form developed by the operator which includes the required information. This information shall be available for review by a representative of the Division during the time period the medication is being administered and for at least six months

after the medication is administered.

- (c) To assure the health of children through proper sanitation, the operator shall:
 - (1) collect and submit samples of water from each well used for the children's water supply for bacteriological analysis to the local health department or a laboratory certified to analyze drinking water for public water supplies by the North Carolina Division of Laboratory Services every two years. Results of the analysis shall be on file in the home.
 - (2) have sanitary toilet, diaper changing and handwashing facilities. Diaper changing areas shall be separate from food preparation areas.
 - (3) use sanitary diapering procedures. Diapers shall be changed whenever they become soiled or wet. The operator shall:
 - (A) wash his or her hands before, as well as after, diapering each child.
 - (B) wash the child's hands after diapering the child.
 - (C) place soiled diapers in a covered, leak-proof container which is emptied and cleaned daily.
 - (4) use sanitary procedures when preparing and serving food. The operator shall:
 - (A) wash his or her hands before and after handling food and feeding the children.
 - (B) wash the child's hands before and after the child is fed.
 - (5) refrigerate all perishable food and beverages. The refrigerator shall be in good repair and maintain a temperature of 45 degrees Fahrenheit or below. A refrigerator thermometer is required to monitor the temperature.
 - (6) date and label all bottles for each individual child, except when there is only one bottle-fed child in care.
 - (7) have a house that is free of rodents.
 - (8) screen all windows and doors used for ventilation.
 - (9) have all household pets vaccinated with up-to-date vaccinations as required by North Carolina law and local ordinances. Rabies vaccinations are required for cats and dogs.
 - (10) store garbage in waterproof containers with tight fitting covers.
- (d) The operator shall not force children to use the toilet and the operator shall consider the developmental readiness of each individual child during toilet training.

*History Note: Authority G.S. 110-88; 110-91(6);
Eff. July 1, 1998.*

TITLE 11 - DEPARTMENT OF INSURANCE

CHAPTER 12 - LIFE AND HEALTH DIVISION

SECTION .1800 - PPO BENEFIT PLAN PRODUCT LIMITATIONS

.1803 GENERAL REQUIREMENTS

No insurer shall provide any PPO benefit plan unless it complies with the following:

- (1) Where the covered benefits of a PPO benefit plan include coinsurance, the difference in coinsurance rates between in-network covered services and out-of-network covered services shall not exceed 30 percentage points.
- (2) If the schedule of benefits for a PPO benefit plan imposes a deductible for in-network covered services, the amount of any separate annual deductible per enrollee or per family for out-of-network covered services may not exceed two times the amount of the annual per enrollee or per family deductible applied to in-network covered services.
- (3) If the schedule of benefits for a PPO benefit plan does not include an annual deductible for in-network covered services, the annual deductibles for out-of-network covered services shall not exceed two hundred and fifty dollars (\$250) per enrollee and the family deductible may not exceed seven hundred and fifty dollars (\$750).
- (4) The portion of any charge for out-of-network covered services to be applied to an annual deductible may be based on actual charges or the insurer's usual and customary charges.
- (5) If there are benefit maximums for in-network covered services, the amount of any annual and lifetime maximum limits for out-of-network covered services shall not be less than one-half of the amount of any annual and lifetime maximum limits for in-network covered services.
- (6) If a PPO benefit plan includes copayments for both in-network covered services and out-of-network covered services, the amount of the copayment for an out-of-network covered service shall not exceed the copayment for an in-network covered service by more than twenty dollars (\$20.00) or 100%, whichever is greater.
- (7) If the schedule of benefits for a PPO benefit plan limits the annual out-of-pocket expenses of enrollees to a maximum amount for in-network covered services, the amount of any separate annual out-of-pocket maximum for out-of-network covered services may not exceed two times the maximum amount for in-network covered services.
- (8) If the schedule of benefits for a PPO benefit plan does not include an annual maximum limit on out-of-pocket expenses for in-network covered services, the maximum limit on out-of-pocket expenses for out-of-network covered services shall not exceed one thousand two hundred and fifty dollars (\$1,250) per enrollee or three thousand seven hundred and fifty dollars (\$3,750) per family.
- (9) An insurer offering a PPO benefit plan may limit

coverage for annual physicals and health screenings performed for preventative purposes to those services provided on an in-network basis, except that services provided in connection with mandated benefits must be available on both an in-network and out-of-network basis. An insurer shall provide coverage on both an in-network and out-of-network basis for all other covered services.

- (10) PPO benefit plans shall give enrollees the option to choose in-network covered services or out-of-network covered services each time those covered services are authorized, obtained, or rendered; and shall not require enrollees to obtain insurer approval to exercise that option.
- (11) An insurer offering a PPO benefit plan shall not impose different medical management requirements, including utilization review criteria or prior approval requirements, for out-of-network covered services than are imposed on in-network covered services. Those medical management requirements shall not restrict enrollees' abilities to seek covered services on out-of-network bases.

History Note: Authority G.S. 58-2-40; 58-50-56; Temporary Adoption Eff. January 1, 1998; Eff. August 1, 1998.

.1804 DISCLOSURE REQUIREMENTS

(a) If an enrollee utilizes out-of-network covered services, the explanation of benefits shall contain an explanation of coverage for out-of-network covered services that allows each enrollee to determine his or her obligations with respect to those services.

(b) Marketing materials, evidences of coverage, enrollee handbooks, and other materials given to enrollees by an insurer that offers a PPO benefit plan shall contain a clear and comprehensive explanation of the PPO benefit plan. The explanation shall include the following information:

- (1) the method of reimbursement, including whether actual charges or usual and customary charges are used in making all benefit calculations;
- (2) applicable coinsurance, copayment, and deductible amounts;
- (3) any other uncovered costs or charges;
- (4) the covered health care services that an enrollee may receive on an out-of-network basis, including whether or not annual physicals and health screenings are available out-of-network; and
- (5) instructions for submittal of claims for out-of-network covered services.

History Note: Authority G.S. 58-2-40; 58-3-191(b); 58-50-56; Temporary Adoption Eff. January 1, 1998; Eff. August 1, 1998.

TITLE 15A - DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

CHAPTER 2 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 2D - AIR POLLUTION CONTROL REQUIREMENTS

SECTION .0100 - DEFINITIONS AND REFERENCES

.0105 MAILING LIST

(a) The Division shall develop and maintain a mailing list of persons who have requested notification of rule-making as required by 150B-21.2(b). Such persons shall receive a copy of the complete notice as filed with the Office of Administrative Hearings.

(b) Any person requesting to be on a mailing list established under Paragraph (a) of this Rule shall submit a written request to the Air Quality Division, PO Box 29580, Raleigh, North Carolina, 27626. Payment of fees required under this Section may be by check or money order for thirty dollars (\$30.00) made payable to the Department of Environment and Natural Resources. Payment shall be submitted with each request and received by June 1 of each year. The fee covers from July 1 to June 30 of the following year.

*History Note: Authority G.S. 143-215.3(a)(1); 150B-21.2(b);
Eff. April 1, 1995;
Amended Eff. July 1, 1998; May 1, 1998.*

SECTION .0500 - EMISSION CONTROL STANDARDS

.0535 EXCESS EMISSIONS REPORTING AND MALFUNCTIONS

(a) For this Rule the following definitions apply:

- (1) "Excess Emissions" means an emission rate that exceeds any applicable emission limitation or standard allowed by any rule in Sections .0500, .0900, .1200, or .1400 of this Subchapter; or by a permit condition; or that exceeds an emission limit established in a permit issued under 15A NCAC 2Q .0700.
- (2) "Malfunction" means any unavoidable failure of air pollution control equipment, process equipment, or process to operate in a normal and usual manner that results in excess emissions. Excess emissions during periods of routine start-up and shut-down of process equipment shall not be considered a malfunction. Failures caused entirely or in part by poor maintenance, careless operations or any other upset condition within the control of the emission source shall not be considered a malfunction.
- (3) "Start-up" means the commencement of operation of any source that has shut-down or ceased

operation for a period sufficient to cause temperature, pressure, process, chemical, or a pollution control device imbalance that would result in excess emission.

- (4) "Shut-down" means the cessation of the operation of any source for any purpose.

(b) This Rule does not apply to sources to which Rules .0524, .1110, or .1111 of this Subchapter applies unless excess emissions exceed an emission limit established in a permit issued under 15A NCAC 2Q .0700 that is more stringent than the emission limit set by Rules .0524, .1110 or .1111 of this Subchapter.

(c) Any excess emissions that do not occur during start-up or shut-down shall be considered a violation of the appropriate rule unless the owner or operator of the source of excess emissions demonstrates to the Director, that the excess emissions are the result of a malfunction. To determine if the excess emissions are the result of a malfunction, the Director shall consider, along with any other pertinent information, the following:

- (1) The air cleaning device, process equipment, or process has been maintained and operated, to the maximum extent practicable, consistent with good practice for minimizing emissions;
- (2) Repairs have been made expeditiously when the emission limits have been exceeded;
- (3) The amount and duration of the excess emissions, including any bypass, have been minimized to the maximum extent practicable;
- (4) All practical steps have been taken to minimize the impact of the excess emissions on ambient air quality;
- (5) The excess emissions are not part of a recurring pattern indicative of inadequate design, operation, or maintenance;
- (6) The requirements of Paragraph (f) of this Rule have been met; and
- (7) If the source is required to have a malfunction abatement plan, it has followed that plan.

All malfunctions shall be repaired as expeditiously as practicable. However, the Director shall not excuse excess emissions caused by malfunctions from a source for more than 15 percent of the operating time during each calendar year. The Director may require the owner or operator of a facility to maintain records of the time that a source operates when it or its air pollution control equipment is malfunctioning or otherwise has excess emissions.

(d) All electric utility boiler units shall have a malfunction abatement plan approved by the Director as satisfying the requirements of Subparagraphs (1) through (3) of this Paragraph. In addition, the Director may require any other source to have a malfunction abatement plan approved by the Director as satisfying the requirements of Subparagraphs (1) through (3) of this Paragraph. If the Director requires a malfunction abatement plan for a source other than an electric utility boiler, the owner or operator of that source shall submit a malfunction abatement plan within 60 days after receipt of the Director's request. The malfunction plans of electric

utility boiler units and of other sources required to have them shall be implemented when a malfunction or other breakdown occurs. The purpose of the malfunction abatement plan is to prevent, detect, and correct malfunctions or equipment failures that could result in excess emissions. A malfunction abatement plan shall contain as a minimum:

- (1) a complete preventive maintenance program including:
 - (A) the identification of individuals or positions responsible for inspecting, maintaining and repairing air cleaning devices;
 - (B) a description of the items or conditions that will be inspected and maintained;
 - (C) the frequency of the inspection, maintenance services, and repairs; and
 - (D) an identification and quantities of the replacement parts that shall be maintained in inventory for quick replacement;
- (2) an identification of the source and air cleaning operating variables and outlet variables, such as opacity, grain loading, and pollutant concentration, that may be monitored to detect a malfunction or failure; the normal operating range of these variables and a description of the method of monitoring or surveillance procedures and of informing operating personnel of any malfunctions, including alarm systems, lights or other indicators; and
- (3) a description of the corrective procedures that the owner or operator will take in case of a malfunction or failure to achieve compliance with the applicable rule as expeditiously as practicable but no longer than the next boiler or process outage that would provide for an orderly repair or correction of the malfunction or 15 days, whichever is shorter. If the owner or operator anticipates that the malfunction would continue for more than 15 days, a case-by-case repair schedule will be established by the Director with the source.

The owner or operator shall maintain logs to show that the operation and maintenance parts of the malfunction abatement plan are implemented. These logs shall be subject to inspection by the Director or his designee upon request during business hours.

(e) The owner or operator of any electric utility boiler unit required to have a malfunction abatement plan shall submit a malfunction abatement plan to the Director within 60 days of the effective date of this Rule. The owner or operator of any other source required by the Director to have a malfunction abatement plan shall submit a malfunction abatement plan to the Director within six months after it has been required by the Director. The malfunction abatement plan and any amendment to it shall be reviewed by the Director or his designee. If the plan carries out the objectives described by Paragraph (d) of this Rule, the Director shall approve it. If the plan does not carry out the objectives described by Paragraph (d) of this Rule, the Director shall disapprove the plan. The Director shall state his reasons for his disapproval. The

person who submits the plan shall submit an amendment to the plan to satisfy the reasons for the Director's disapproval within a time prescribed by the Director. Any person having an approved malfunction abatement plan shall submit to the Director for his approval amendments reflecting changes in any element of the plan required by Paragraph (d) of this Rule or amendments when requested by the Director. The malfunction abatement plan and amendments to it shall be implemented within 90 days upon receipt of written notice of approval.

(f) The owner or operator of a source of excess emissions that last for more than four hours and that results from a malfunction, a breakdown of process or control equipment or any other abnormal conditions, shall:

- (1) notify the Director or his designee of any such occurrence by 9:00 a.m. Eastern time of the Division's next business day of becoming aware of the occurrence and describe:
 - (A) name and location of the facility,
 - (B) the nature and cause of the malfunction or breakdown,
 - (C) the time when the malfunction or breakdown is first observed,
 - (D) the expected duration, and
 - (E) an estimated rate of emissions;
- (2) notify the Director or his designee immediately when the corrective measures have been accomplished;
- (3) submit to the Director within 15 days after the request a written report that includes:
 - (A) name and location of the facility,
 - (B) identification or description of the processes and control devices involved in the malfunction or breakdown,
 - (C) the cause and nature of the event,
 - (D) time and duration of the violation or the expected duration of the excess emission if the malfunction or breakdown has not been fixed,
 - (E) estimated quantity of pollutant emitted,
 - (F) steps taken to control the emissions and to prevent recurrences and if the malfunction or breakdown has not been fixed, steps planned to be taken, and
 - (G) any other pertinent information requested by the Director.

After the malfunction or breakdown has been corrected, the Director may require the owner or operator of the source to test the source in accordance with Rule .0501 of this Section to demonstrate compliance.

(g) Start-up and shut-down. Excess emissions during start-up and shut-down shall be considered a violation of the appropriate rule if the owner or operator cannot demonstrate that the excess emissions are unavoidable when requested to do so by the Director. The Director may specify for a particular source the amount, time, and duration of emissions allowed during start-up or shut-down. The owner or operator shall, to the extent practicable, operate the source and any

associated air pollution control equipment or monitoring equipment in a manner consistent with best practicable air pollution control practices to minimize emissions during start-up and shut-down.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.10⁻(a)(4); 143-215.10⁻(a)(5);

Eff. March 1, 1983;

Amended Eff. July 1, 1998; July 1, 1996; October 1, 1991; May 1, 1990; April 1, 1986.

SECTION .1100 - CONTROL OF TOXIC AIR POLLUTANTS

.1103 DEFINITION

For the purpose of this Section, the following definitions apply:

- (1) "Asbestos" means asbestos fibers as defined in 40 CFR 61.141.
- (2) "CAS Number" means the Chemical Abstract Service registry number identifying a particular substance.
- (3) "Cresol" means o-cresol, p-cresol, m-cresol or any combination of these compounds.
- (4) "GACT" means any generally available control

technology emission standard applied to an area source or facility pursuant to Section 112 of the federal Clean Air Act.

- (5) "Hexane isomers except n-hexane" means 2-methyl pentane, 3-methyl pentane, 2,2-dimethyl butane, 2,3-dimethyl butane, or any combination of these compounds.
- (6) "MACT" means any maximum achievable control technology emission standard applied to a source or facility pursuant to Section 112 of the federal Clean Air Act.
- (7) "Polychlorinated biphenyls" means any chlorinated biphenyl compound or mixture of chlorinated biphenyl compounds.
- (8) "Toxic air pollutant" means any of those carcinogens, chronic toxicants, acute systemic toxicants, or acute irritants listed in Rule .1104 of this Section.

History Note: Authority G.S. 143-213; 143-215.3(a)(1); 143B-282; S. L. 1989, c. 168, s. 45;

Eff. May 1, 1990;

Amended Eff. July 1, 1998.

.1104 TOXIC AIR POLLUTANT GUIDELINES

A facility shall not emit any of the following toxic air pollutants in such quantities that may cause or contribute beyond the premises (adjacent property boundary) to any significant ambient air concentration that may adversely affect human health. In determining these significant ambient air concentrations, the Division shall be guided by the following list of acceptable ambient levels in milligrams per cubic meter at 77° F (25° C) and 29.92 inches (760 mm) of mercury pressure (except for asbestos):

Pollutant (CAS Number)	Annual (Carcinogens)	24-hour (Chronic Toxicants)	1-hour (Acute Systemic Toxicants)	1-hour (Acute Irritants)
acetaldehyde (75-07-0)				27
acetic acid (64-19-7)				3.7
acrolein (107-02-8)				0.08
acrylonitrile (107-13-1)	1.5 x 10 ⁻⁴			
ammonia (7664-41-7)				2.7
ammonium chromate (7788-98-9)		6.2 x 10 ⁻⁴		
ammonium dichromate (7789-09-5)		6.2 x 10 ⁻⁴		
aniline (62-53-3)			1	
arsenic and inorganic arsenic compounds	2.3 x 10 ⁻⁷			
asbestos (1332-21-4)	2.8 x 10 ⁻¹¹ fibers/ml			
aziridine (151-56-4)		0.006		

APPROVED RULES

Pollutant (CAS Number)	Annual (Carcinogens)	24-hour (Chronic Toxicants)	1-hour (Acute Systemic Toxicants)	1-hour (Acute Irritants)
benzene (71-43-2)	1.2×10^{-4}			
benzidine and salts (92-87-5)	1.5×10^{-8}			
benzo(a)pyrene (50-32-8)	3.3×10^{-5}			
benzyl chloride (100-44-7)			0.5	
beryllium (7440-41-7)	4.1×10^{-6}			
beryllium chloride (7787-47-5)	4.1×10^{-6}			
beryllium fluoride (7787-49-7)	4.1×10^{-6}			
beryllium nitrate (13597-99-4)	4.1×10^{-6}			
bis-chloromethyl ether (542-88-1)	3.7×10^{-7}			
bromine (7726-95-6)				0.2
1,3-butadiene (106-99-0)	1.7×10^{-4}			
cadmium (7440-43-9)	5.5×10^{-6}			
cadmium acetate (543-90-8)	5.5×10^{-6}			
cadmium bromide (7789-42-6)	5.5×10^{-6}			
calcium chromate (13765-19-0)	8.3×10^{-8}			
carbon disulfide (75-15-0)		0.186		
carbon tetrachloride (56-23-5)	6.7×10^{-3}			
chlorine (7782-50-5)		0.0375		0.9
chlorobenzene (108-90-7)		2.2		
chloroform (67-66-3)	4.3×10^{-3}			
chloroprene (126-99-8)		0.44	3.5	
chromic acid (7738-94-5)		6.2×10^{-4}		
chromium (VI)	8.3×10^{-8}			
cresol (1319-77-3)			2.2	
p-dichlorobenzene (106-46-7)				66
dichlorodifluoromethane (75-71-8)		248		
dichlorofluoromethane (75-43-4)		0.5		
di(2-ethylhexyl)phthalate (117-81-7)		0.03		
dimethyl sulfate (77-78-1)		0.003		
1,4-dioxane (123-91-1)		0.56		
epichlorohydrin (106-89-8)	8.3×10^{-2}			
ethyl acetate (141-78-6)			140	

Pollutant (CAS Number)	Annual (Carcinogens)	24-hour (Chronic Toxicants)	1-hour (Acute Systemic Toxicants)	1-hour (Acute Irritants)
ethylenediamine (107-15-3)		0.3	2.5	
ethylene dibromide (106-93-4)	4.0×10^{-4}			
ethylene dichloride (107-06-2)	3.8×10^{-3}			
ethylene glycol monoethyl ether (110-80-5)		0.12	1.9	
ethylene oxide (75-21-8)	2.7×10^{-5}			
ethyl mercaptan (75-08-1)			0.1	
fluorides		0.016	0.25	
formaldehyde (50-00-0)				0.15
hexachlorocyclopentadiene (77-47-4)		0.0006	0.01	
hexachlorodibenzo-p-dioxin (57653-85-7)	7.6×10^{-8}			
n-hexane (110-54-3)		1.1		
hexane isomers except n-hexane				360
hydrazine (302-01-2)		0.0006		
hydrogen chloride (7647-01-0)				0.7
hydrogen cyanide (74-90-8)		0.14	1.1	
hydrogen fluoride (7664-39-3)		0.03		0.25
hydrogen sulfide (7783-06-4)				2.1
maleic anhydride (108-31-6)		0.012	0.1	
manganese and compounds		0.031		
manganese cyclopentadienyl tricarbonyl (12079-65-1)		0.0006		
manganese tetroxide (1317-35-7)		0.0062		
mercury, alkyl		0.00006		
mercury, aryl and inorganic compounds		0.0006		
mercury, vapor (7439-97-6)		0.0006		
methyl chloroform (71-55-6)		12		245
methylene chloride (75-09-2)	2.4×10^{-2}		1.7	
methyl ethyl ketone (78-93-3)		3.7		88.5
methyl isobutyl ketone (108-10-1)		2.56		30
methyl mercaptan (74-93-1)			0.05	

Pollutant (CAS Number)	Annual (Carcinogens)	24-hour (Chronic Toxicants)	1-hour (Acute Systemic Toxicants)	1-hour (Acute Irritants)
nickel carbonyl (13463-39-3)		0.0006		
nickel metal (7440-02-0)		0.006		
nickel, soluble compounds, as nickel		0.0006		
nickel subsulfide (12035-72-2)	2.1×10^{-6}			
nitric acid (7697-37-2)				1
nitrobenzene (98-95-3)		0.06	0.5	
N-nitrosodimethylamine (62-75-9)	5.0×10^{-5}			
pentachlorophenol (87-86-5)		0.003	0.025	
perchloroethylene (127-18-4)	1.9×10^{-1}			
phenol (108-95-2)			0.95	
phosgene (75-44-5)		0.0025		
phosphine (7803-51-2)				0.13
polychlorinated biphenyls (1336-36-3)	8.3×10^{-5}			
potassium chromate (7789-00-6)		6.2×10^{-4}		
potassium dichromate (7778-50-9)		6.2×10^{-4}		
sodium chromate (7775-11-3)		6.2×10^{-4}		
sodium dichromate (10588-01-9)		6.2×10^{-4}		
strontium chromate (7789-06-2)	8.3×10^{-8}			
styrene (100-42-5)			10.6	
sulfuric acid (7664-93-9)		0.012	0.1	
tetrachlorodibenzo-p-dioxin (1746-01-6)	3.0×10^{-9}			
1,1,1,2-tetrachloro-2,2- difluoroethane (76-11-9)		52		
1,1,2,2-tetrachloro-1,2- difluoroethane (76-12-0)		52		
1,1,2,2-tetrachloroethane (79-34-5)	6.3×10^{-3}			
toluene (108-88-3)		4.7		56
toluene diisocyanate, 2,4- (584- 84-9) and 2,6- (91-08-7) isomers		0.0002		
trichloroethylene (79-01-6)	5.9×10^{-2}			

Pollutant (CAS Number)	Annual (Carcinogens)	24-hour (Chronic Toxicants)	1-hour (Acute Systemic Toxicants)	1-hour (Acute Irritants)
trichlorofluoromethane (75-69-4)		560		
1,1,2-trichloro-1,2,2-trifluoroethane (76-13-1)				950
vinyl chloride (75-01-4)	3.8×10^{-4}			
vinylidene chloride (75-35-4)		0.12		
xylene (1330-20-7)		2.7		65
zinc chromate (13530-65-9)	8.3×10^{-8}			

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3),(4),(5); 143B-282; S.L. 1989, c. 168, s. 45;

Eff. May 1, 1990;

Amended Eff. July 1, 1998; September 1, 1992; March 1, 1992.

.1106 DETERMINATION OF AMBIENT AIR CONCENTRATION

(a) Modeling shall not be used for enforcement. Modeling shall be used to determine process operational and air pollution control parameters and emission rates for toxic air pollutants to place in the air quality permit for that facility that will prevent any of the acceptable ambient levels in Rule .1104 of this Section from being exceeded, with such exceptions as may be allowed under 15A NCAC 2Q .0700. Enforcing these permit stipulations and conditions shall be the mechanism used to ensure that the requirements of Rule .1104 of this Section, with such exceptions as may be allowed by 15A NCAC 2Q .0700, are met.

(b) The owner or operator of the facility may request the Division to perform a modeling analysis of the facility or provide the analysis himself. If the owner or operator of the facility requests the Division to perform the modeling analysis, he shall provide emissions rates, stack parameters, and other information that the Division needs to do the modeling. The data that the owner or operator of the facility provides the Division to use in the model or in deriving the data used in the model shall be the process, operational and air pollution control equipment parameters and emission rates that will be contained in the facility's permit. If the Division's initial review of the modeling request indicates extensive or inappropriate use of state resources or if the Division's modeling analysis fails to show compliance with the acceptable ambient levels in Rule .1104 of this Section, the modeling demonstration becomes the responsibility of the owner or operator of the facility.

(c) When the owner or operator of the facility is responsible for providing the modeling demonstration and the data used in the modeling, the owner or operator of the facility shall use in the model or in deriving data used in the model the process operational and air pollution control equipment parameters and emission rates that will be contained in his permit. Sources that are not required to be included in the

model will not be included in the permit to emit toxic air pollutants.

(d) For the following pollutants, modeled emission rates shall be based on the highest emissions occurring in any single 15 minute period. The resultant modeled 1-hour concentrations shall then be compared to the applicable 1-hour acceptable ambient levels to determine compliance. These pollutants are:

- (1) acetaldehyde (75-07-0)
- (2) acetic acid (64-19-7)
- (3) acrolein (107-02-8)
- (4) ammonia (7664-41-7)
- (5) bromine (7726-95-6)
- (6) chlorine (7782-50-5)
- (7) formaldehyde (50-00-0)
- (8) hydrogen chloride (7647-01-0)
- (9) hydrogen fluoride (7664-39-3)
- (10) nitric acid (7697-37-2)

(e) The owner or operator of the facility and the Division may use any model allowed by 40 CFR 51.166(l) provided that the model is appropriate for the facility being modeled. The owner or operator or the Division may use a model other than one allowed by 40 CFR 51.166(l) provided that the Director determines that the model is equivalent to the model allowed by 40 CFR 51.166(l). Regardless of model used, the owner or operator and the Division shall model for cavity effects and shall comply with the modeling requirements for stack height set out in Rule .0533 of this Subchapter.

(f) Ambient air concentrations are to be evaluated for annual periods over a calendar year, for 24-hour periods from midnight to midnight, and for one-hour periods beginning on the hour.

(g) The owner or operator of the facility shall identify each toxic air pollutant emitted and its corresponding emission rate using mass balancing analysis, source testing, or other methods that the Director may approve as providing an equivalently accurate estimate of the emission rate.

(h) The owner or operator of the facility shall submit a modeling plan to the Director and shall have received approval of that plan from the before submitting a modeling demonstration to the Director. The modeling plan shall include:

- (1) a diagram of the plant site, including locations of all stacks and associated buildings;
- (2) on-site building dimensions;
- (3) a diagram showing property boundaries, including a scale, key and north indicator;
- (4) the location of the site on a United States Geological Survey (USGS) map;
- (5) discussion of good engineering stack height and building wake effects for each stack;
- (6) discussion of cavity calculations, impact on rolling and complex terrain, building wake effects, and urban/rural considerations;
- (7) discussion of reasons for model selection;
- (8) discussion of meteorological data to be used;
- (9) discussion of sources emitting the pollutant that are not to be included in the model with an explanation of why they are being excluded (i.e. why the source will not affect the modeling analysis); and
- (10) any other pertinent information.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3), (5); 143B-282; S.L. 1989, c. 168, s. 45;

Eff. May 1, 1990;

Amended Eff. July 1, 1998.

SUBCHAPTER 2Q - AIR QUALITY PERMIT PROCEDURES

SECTION .0700 - TOXIC AIR POLLUTANT PROCEDURES

.0701 APPLICABILITY

(a) With the exceptions in Rule .0702 of this Section, no person shall cause or allow any toxic air pollutant named in 15A NCAC 2D .1104 to be emitted from any facility into the atmosphere at a rate that exceeds the applicable rate(s) in Rule .0711 of this Section without having received a permit to emit toxic air pollutants as follows:

- (1) new facilities according to Rule .0704 of this Section
- (2) existing facilities according to Rule .0705 of this Section;
- (3) modifications according to Rule .0706 of this Section.

(b) Within one year after promulgation of MACT standards for the industrial boilers, commercial/institutional boilers, process heaters, stationary combustion turbines and stationary internal combustion engines source categories under Section 112 (d) of the Clean Air Act that are applicable to combustion sources as defined in Rule .0703 of this Section, the Division shall assess such MACT standards to determine whether additional measures are necessary with respect to toxic air pollutant emissions from combustion sources. Upon

completion of this determination, the Commission shall proceed through normal rulemaking procedures, if necessary, to implement additional measures.

(c) Facilities required to comply with MACT standards under 15A NCAC 2D .1109, .1111, or .1112 or 40 CFR Part 63 shall be deemed in compliance with this Subchapter and 15A NCAC 2D .1100 unless the Division determines that modeled emissions result in one or more acceptable ambient levels in 15A NCAC 2D .1104 being exceeded. This review shall be made according to the procedures in 15A NCAC 2D .1106. Once a facility demonstrates compliance with the acceptable ambient levels in 15A NCAC 2D .1104, future demonstrations shall only be required on a five-year basis.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.108; 143B-282; S. L. 1989, c. 168, s. 45;

Rule originally codified as part of 15A NCAC 2H .0610; Eff. July 1, 1998.

.0702 EXEMPTIONS

(a) A permit to emit toxic air pollutants shall not be required under this Section for:

- (1) residential wood stoves, heaters, or fireplaces;
- (2) hot water heaters that are used for domestic purposes only and are not used to heat process water;
- (3) maintenance, structural changes, or repairs that do not change capacity of that process, fuel-burning, refuse-burning, or control equipment, and do not involve any change in quality or nature or increase in quantity of emission of any regulated air pollutant or toxic air pollutant;
- (4) housekeeping activities or building maintenance procedures, including painting buildings, resurfacing floors, roof repair, washing, portable vacuum cleaners, sweeping, use and associated storage of janitorial products, or non-asbestos bearing insulation removal;
- (5) use of office supplies, supplies to maintain copying equipment, or blueprint machines;
- (6) paving parking lots;
- (7) replacement of existing equipment with equipment of the same size, type, and function that does not result in an increase to the actual or potential emissions of any regulated air pollutant or toxic air pollutant and that does not affect compliance status and, with replacement that fits the description of the existing equipment in the permit, including the application, such that the replacement equipment can be operated under that permit without any changes to the permit;
- (8) comfort air conditioning or comfort ventilation systems that does not transport, remove, or exhaust regulated air pollutants to the atmosphere;
- (9) equipment used for the preparation of food for direct on-site human consumption;
- (10) non-self-propelled non-road engines, except generators, regulated by rules adopted under Title

- II of the federal Clean Air Act;
- (11) stacks or vents to prevent escape of sewer gases from domestic waste through plumbing traps;
 - (12) use of fire fighting equipment;
 - (13) the use for agricultural operations by a farmer of fertilizers, pesticides, or other agricultural chemicals containing one or more of the compounds listed in 15A NCAC 2D .1104 if such compounds are applied according to agronomic practices acceptable to the North Carolina Department of Agriculture and the Commission;
 - (14) asbestos demolition and renovation projects that comply with 15A NCAC 2D .1110 and that are being done by persons accredited by the Department of Health and Human Services under the Asbestos Hazard Emergency Response Act;
 - (15) farm and pet incinerators used only to dispose of dead animals as identified in 15A NCAC 2D .1201(d) and (e);
 - (16) refrigeration equipment that is consistent with Section 601 through 618 of Title VI (Stratospheric Ozone Protection) of the federal Clean Air Act, 40 CFR Part 82, and any other regulations promulgated by EPA under Title VI for stratospheric ozone protection, except those units used as or with air pollution control equipment;
 - (17) laboratory activities:
 - (A) bench-scale, on-site equipment used exclusively for chemical or physical analysis for quality control purposes, staff instruction, water or wastewater analyses, or non-production environmental compliance assessments;
 - (B) bench scale experimentation, chemical or physical analyses, training or instruction from nonprofit, non-production educational laboratories;
 - (C) bench scale experimentation, chemical or physical analyses, training or instruction from hospital or health laboratories pursuant to the determination or diagnoses of illnesses; and
 - (D) research and development laboratory activities that are not required to be permitted under Section .0500 of this Subchapter provided the activity produces no commercial product or feedstock material;
 - (18) combustion sources as defined in 15 NCAC 2Q .0703 until 18 months after promulgation of the MACT or GACT standards for combustion sources. (Within 18 months following promulgation of the MACT or GACT standards for combustion sources, the Commission shall decide whether to keep or remove the combustion source exemption. If the Commission decides to remove the exemption, it shall initiate rulemaking procedures to remove this exemption.)
 - (19) storage tanks used only to store:
 - (A) inorganic liquids with a true vapor pressure less than 1.5 pounds per square inch absolute;
 - (B) fuel oils, kerosene, diesel, crude oil, used motor oil, lubricants, cooling oils, natural gas, liquefied petroleum gas, or petroleum products with a true vapor pressure less than 1.5 pounds per square inch absolute;
 - (20) dispensing equipment used solely to dispense diesel fuel, kerosene, lubricants or cooling oils;
 - (21) portable solvent distillation systems that are exempted under 15A NCAC 2Q .0102(b)(1)(i);
 - (22) processes:
 - (A) small electric motor burn-out ovens with secondary combustion chambers or afterburners;
 - (B) small electric motor bake-on ovens;
 - (C) burn-off ovens for paint-line hangers with afterburners;
 - (D) hosiery knitting machines and associated lint screens, hosiery dryers and associated lint screens, and hosiery dyeing processes where bleach or solvent dyes are not used;
 - (E) blade wood planers planing only green wood;
 - (F) saw mills that saw no more than 2,000,000 board feet per year provided only green wood is sawed;
 - (G) perchloroethylene drycleaning processes with 12-month rolling average consumption of:
 - (i) less than 1366 gallons of perchloroethylene per year for facilities with dry-to-dry machines only;
 - (ii) less than 1171 gallons of perchloroethylene per year for facilities with transfer machines only; or
 - (iii) less than 1171 gallons of perchloroethylene per year for facilities with both transfer and dry-to-dry machines;
 - (23) gasoline dispensing facilities or gasoline service station operations that comply with 15A NCAC 2D .0928 and .0932 and that receive gasoline from bulk gasoline plants or bulk gasoline terminals that comply with 15A NCAC 2D .0524, .0925, .0926, .0927, .0932, and .0933 via tank trucks that comply with 15A NCAC 2D .0932;
 - (24) the use of ethylene oxide as a sterilant in the production and subsequent storage of medical devices or the packaging and subsequent storage of medical devices for sale if the emissions from all new and existing sources at the facility described in 15A NCAC 2D .0538(d) are controlled at least to the degree described in 15A NCAC 2D .0538(d) and the facility complies with 15A NCAC 2D

.0538(e) and (f);

- (25) bulk gasoline plants, including the storage and handling of fuel oils, kerosenes, and jet fuels but excluding the storage and handling of other organic liquids, that comply with 15A NCAC 2D .0524, .0925, .0926, .0932, and .0933; unless the Director finds that a permit to emit toxic air pollutants is required under this Section for a particular bulk gasoline plant; or
- (26) bulk gasoline terminals, including the storage and handling of fuel oils, kerosenes, and jet fuels but excluding the storage and handling of other organic liquids, that comply with 15A NCAC 2D .0524, .0925, .0927, .0932, and .0933 if the bulk gasoline terminal existed before November 1, 1992; unless:
 - (A) the Director finds that a permit to emit toxic air pollutants is required under this Section for a particular bulk gasoline terminal, or
 - (B) the owner or operator of the bulk gasoline terminal meets the requirements of 15A NCAC 2D .0927(i).

(b) Emissions from the activities identified Subparagraphs (a)(23) through (a)(26) of this Rule shall be included in determining compliance with the toxic air pollutant requirements in this Section and shall be included in the permit if necessary to assure compliance.

(c) The addition or modification of an activity identified in Paragraph (a) of this Rule shall not cause the source or facility to be evaluated for emissions of toxic air pollutants.

(d) Because an activity is exempted from being required to have a permit does not mean that the activity is exempted from any applicable requirement or that the owner or operator of the source is exempted from demonstrating compliance with any applicable requirement.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.108; 143B-282; S.L. 1989, c. 168, s. 45;

Rule originally codified as part of 15A NCAC 2H .0610; Eff. July 1, 1998.

.0705 EXISTING FACILITIES AND SIC CALLS

(a) This Rule applies only to facilities that were in operation or permitted to construct before October 1, 1993 and new facilities subject to Rule .0704(c) of this Section.

(b) For sources at a facility subject to a MACT or GACT standard, or that may be subject to a MACT or GACT standard based on studies required by Section 112(n)(1) of the Clean Air Act, 42 U.S.C. Section 7412(n)(1), the owner or operator of the facility shall comply with 15A NCAC 2D .1100 as follows:

- (1) When the owner or operator submits a permit application to comply with the last MACT or GACT, excluding the MACT or GACT for combustion sources, known to apply to the facility, he shall also submit a permit application to comply with 15A NCAC 2D .1100. The facility shall comply with 15A NCAC 2D .1100 by the same deadline that it is required to comply with the last

MACT or GACT.

- (2) If the owner or operator does not have to submit a permit application to comply with the last MACT or GACT, excluding the MACT or GACT for combustion sources, he shall submit a permit application to comply with 15A NCAC 2D .1100 within six months after the promulgation of the last MACT or GACT, excluding the MACT or GACT for combustion sources, known to apply to the facility or by January 1, 1999, whichever is later. The facility shall comply with 15A NCAC 2D .1100 by the same deadline that it is required to comply with the last MACT or GACT.
- (3) If the owner or operator submitted a permit application for the last MACT or GACT, excluding the MACT or GACT for combustion sources, known to apply to the facility before July 1, 1998, he shall submit a permit application to comply with 15A NCAC 2D .1100 by January 1, 1999. The facility shall comply with 15A NCAC 2D .1100 within three years from the date that the permit is issued.

The permit application shall include an evaluation for all toxic air pollutants covered under 15A NCAC 2D .1104 for all sources at the facility, excluding those sources exempt from evaluation under Rule .0702 of this Section. The owner or operator of a facility whose actual rate of emissions from all sources are not greater than the toxic permitting emissions rates listed in Rule .0711 of this Section does not have to file a permit application to comply with 15A NCAC 2D .1100. He shall provide documentation that the facility's emissions of toxic air pollutants are below the levels in Rule .0711 of this Section if the Director requests this documentation.

(c) For facilities that will not be subject to a MACT or GACT standard, or that will be subject only to a MACT or GACT standard for unadulterated fuel combustion sources, the owner or operator of the facility shall have 180 days to apply for a permit or permit modification for the emissions of toxic air pollutants after receiving written notification from the Director that such permit or permit modification is required. The permit application shall include an evaluation for all toxic air pollutants covered under 15A NCAC 2D .1104 for all sources at the facility, excluding sources exempt from evaluation in Rule .0702 of this Section. Such facilities shall comply with 15A NCAC 2D .1100 within three years from the date that the permit is issued. The Director shall notify facilities subject to this Paragraph by calling for permit applications based on standard industrial classifications, that is, the Director shall call at one time for permits for all facilities statewide that have the same four-digit standard industrial classification code, except those facilities in certified local air pollution control agency areas. (Local air pollution control agencies shall call the standard industrial classification code within their jurisdiction when the Director calls that code. A local air pollution control agency may call a particular standard industrial classification code before the Director calls that code if the Commission approves the call by the local air pollution control agency. In deciding if it shall

grant permission to a local air pollution control agency to call a particular standard industrial classification code before the Director calls that code, the Commission shall consider if the call is necessary to protect human health or to allow the local program to better implement these Rules in its jurisdiction.) Facilities with sources that will be subject to MACT that receive an SIC call shall notify the Director and shall comply with 15 NCAC 2D .1100 in accordance with Paragraph (b) of this Rule. All sources, regardless of their standard industrial classification code, excluding sources exempt from evaluation in Rule .0702 of this Section, at the facility shall be included in the call for permit applications. When the Environmental Protection Agency (EPA) promulgates MACT under Section 112(e) of the federal Clean Air Act, excluding cooling towers, the Director shall notify the owners or operators of facilities in the standard industrial classification that best corresponds to the MACT category that they are required to submit a permit application for the emissions of toxic air pollutants from their facilities. If the EPA fails to promulgate a MACT as scheduled, the Director shall notify the owners or operators of facilities 18 months after the missed promulgation date that they are required to submit a permit application for the emissions of toxic air pollutants from their facilities. The owner or operator of a facility whose actual rate of emissions from all sources are not greater than the toxic permitting emissions rates listed in Rule .0711 of this Section does not have to file a permit application to comply with 15A NCAC 2D .1100. He shall provide documentation that the facility's emissions of toxic air pollutants are below the levels in Rule .0711 of this Section if the Director requests this documentation. The Director may request this documentation if he finds that the facility's potential emissions of toxic air pollutants are above the levels in Rule .0711 of this Section.

(d) The owner or operator of a facility may request a permit to emit toxic air pollutants any time before such application is required. The permit application shall include an evaluation for all toxic air pollutants covered under 15A NCAC 2D .1104 for all sources at the facility, excluding sources exempt from evaluation in Rule .0702 of this Section.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.108; 143B-282; S.L. 1989, c. 168, s. 45;

Rule originally codified as part of 15A NCAC 2H .0610; Eff. July 1, 1998.

.0707 PREVIOUSLY PERMITTED FACILITIES

Any facility with a permit that contains a restriction based on the evaluation of a source exempted under Rule .0702 of this Section may request a permit modification to adjust the restriction by removing from consideration the portion of emissions resulting from the exempt source unless the Director determines that the removal of the exempt source will result in an acceptable ambient level in 15A NCAC 2D .1104 being exceeded. The Director shall modify the permit to remove the applicability of the air toxic rules to the exempt source. No fee shall be charged solely for such permit modification.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.108; 143B-282; S.L. 1989, c. 168, s. 45;

Rule originally codified as part of 15A NCAC 2H .0610; Eff. July 1, 1998.

.0708 COMPLIANCE SCHEDULE FOR PREVIOUSLY UNKNOWN TOXIC AIR POLLUTANT EMISSIONS

(a) The owner or operator of a facility permitted to emit toxic air pollutants shall submit a permit application within six months after the owner or operator learns of an emission of a previously unknown toxic air pollutant from a permitted source that would have been included in the permit when it was issued. The application shall include the information required by Paragraph (b) of this Rule.

(b) When an application to revise a permit is submitted under this Rule, the owner or operator shall in addition to the application, submit to the Director:

- (1) an evaluation for the pollutant according to this Section and 15 NCAC 2D .1100 that demonstrates compliance with the acceptable ambient level in 15A NCAC 2D .1104; or
- (2) a compliance schedule containing the information required under Paragraph (c) of this Rule for the proposed modifications to the facility required to comply with the acceptable ambient level according to this Section and Section 15A NCAC 2Q .1100.

(c) The compliance schedule required under Subparagraph (b)(2) of this Rule shall contain the following increments of progress as applicable:

- (1) a date by which contracts for emission control and process equipment shall be awarded or orders shall be issued for the purchase of component parts;
- (2) a date by which on-site construction or installation of the emission control and process equipment shall begin;
- (3) a date by which on-site construction or installation of the emission control and process equipment shall be completed; and
- (4) the date by which final compliance shall be achieved.

(d) Final compliance shall be achieved no later than:

- (1) six months after the permit modification or renewal is issued if construction or installation of emission control or process equipment is not required;
- (2) one year after the permit modification or renewal is issued if construction or installation of emission control or process equipment is required; or
- (3) the time that is normally required to construct a stack or install other dispersion enhancement modifications but not more than one year after the permit modification or renewal is issued.

(e) The owner or operator shall certify to the Director within 10 days after each applicable deadline for each increment of progress required under Paragraph (c) of this Rule whether the required increment of progress has been met.

History Note: Authority G.S. 143-215.3(a)(1); 43-

215.107(a)(3),(5); 143B-282; S.L. 1989, c. 168, s. 45;
Eff. July 1, 1998.

.0709 DEMONSTRATIONS

(a) Demonstrations. The owner or operator of a source who is applying for a permit or permit modification to emit toxic air pollutants shall:

- (1) demonstrate to the satisfaction of the Director through dispersion modeling that the emissions of toxic air pollutants from the facility will not cause any acceptable ambient level listed in 15A NCAC 2D .1104 to be exceeded beyond the premises (adjacent property boundary); or
- (2) demonstrate to the satisfaction of the Commission or its delegate that the ambient concentration beyond the premises (adjacent property boundary) for the subject toxic air pollutant will not adversely affect human health (e.g., a risk assessment specific to the facility) though the concentration is higher than the acceptable ambient level in 15A NCAC 2D .1104 by providing one of the following demonstrations:
 - (A) the area where the ambient concentrations are expected to exceed the acceptable ambient levels in 15A NCAC 2D .1104 is not inhabitable or occupied for the duration of the averaging time of the pollutant of concern, or
 - (B) new toxicological data that show that the acceptable ambient level in 15A NCAC 2D .1104 for the pollutant of concern is too low and the facility's ambient impact is below the level indicated by the new toxicological data.

(b) Technical Infeasibility and Economic Hardship. This Paragraph shall not apply to any incinerator covered under 15A NCAC 2D .1200. The owner or operator of any source constructed before May 1, 1990, or a perchloroethylene dry cleaning facility subject to a GACT standard under 40 CFR 63.320 through 63.325 who cannot supply a demonstration described in Paragraph (a) of this Rule shall:

- (1) demonstrate to the satisfaction of the Commission or its delegate that complying with the guidelines in 15A NCAC 2D .1104 is technically infeasible (the technology necessary to reduce emissions to a level to prevent the acceptable ambient levels in 15A NCAC 2D .1104 from being exceeded does not exist); or
- (2) demonstrate to the satisfaction of the Commission or its delegate that complying with the guidelines in 15A NCAC 2D .1104 would result in serious economic hardship. (In deciding if a serious economic hardship exists, the Commission or its delegate shall consider market impact; impacts on local, regional and state economy; risk of closure; capital cost of compliance; annual incremental compliance cost; and environmental and health impacts.)

If the owner or operator makes a demonstration to the

satisfaction of the Commission or its delegate pursuant to Subparagraphs (1) or (2) of this Paragraph, the Director shall require the owner or operator of the source to apply maximum feasible control. Maximum feasible control shall be in place and operating within three years from the date that the permit is issued for the maximum feasible control.

(c) Pollution Prevention Plan. The owner or operator of any facility using the provisions of Paragraph (a)(2)(A) or Paragraph (b) of this Rule shall develop and implement a pollution prevention plan consisting of the following minimum elements:

- (1) statement of corporate and facility commitment to pollution prevention;
- (2) identification of current and past pollution prevention activities;
- (3) timeline and strategy for implementation;
- (4) description of ongoing and planned employee education efforts;
- (5) identification of internal pollution prevention goal selected by the facility and expressed in either qualitative or quantitative terms.

The facility shall submit along with the permit application the pollution prevention plan. The pollution prevention plan shall be maintained on site. A progress report on implementation of the plan shall be prepared by the facility annually and be made available to Division personnel for review upon request.

(d) Modeling Demonstration. If the owner or operator of a facility demonstrates by modeling that no toxic air pollutant emitted from the facility exceeds the acceptable ambient level values given in 15A NCAC 2D .1104 beyond the facility's premises, further modeling demonstration is not required with the permit application. However, the Commission may still require more stringent emission levels according to its analysis under 15A NCAC 2D .1107.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.108; 143B-282; S.L. 1989, c. 168, s. 45;

*Rule originally codified as part of 15A NCAC 2H .0610;
Eff. July 1, 1998.*

SUBCHAPTER 2R - WETLANDS RESTORATION PROGRAM

SECTION .0100 - PURPOSE AND DEFINITIONS

.0101 PURPOSE

This Section establishes the North Carolina Wetlands Restoration Program pursuant to G.S. 143-214.8 through 143-214.13.

History Note: Authority G.S. 143-214.8; 143-214.9; 143-215.3;

Eff. August 1, 1998.

.0102 DEFINITIONS

The definition of any word or phrase used in this Subchapter shall be the same as given in G.S. 143, Article 21. The following words and phrases, which are not defined by

statute, shall be interpreted as follows:

- (1) "Mitigation bank" means a site where wetlands or other aquatic resources are restored, created, enhanced, or preserved expressly for the purpose of providing compensatory mitigation in advance of authorized impacts to similar resources.
- (2) "Non-riparian wetlands" means Class WL wetlands as defined in 15A NCAC 2B .0101(c)(8) whose major source of water is precipitation. Wetland types generally considered to be non-riparian include wet flats, pocosins and ephemeral wetlands.
- (3) "Riparian area" means an area that does not meet the definition of wetlands found at 15A NCAC 2B .0202 and that is located within 300 feet of any perennial or intermittent water body as shown by the most recently published version of the United States Geological Survey 1:24,000 (7.5 minute) scale topographic map or other site specific data.
- (4) "Riparian wetlands" means Class WL wetlands as defined in 15A NCAC 2B .0101(c)(8) whose major source of water is ground water or surface water. Wetland types generally considered to be riparian include freshwater marshes, swamp forests, bottomland hardwood forests, headwater forests, bog forests, mountain bogs and seeps.

History Note: Authority G.S. 143-214.8; 143-214.9; 143-214.11; 143-215.3;

Eff. August 1, 1998.

SECTION .0200 - BASINWIDE RESTORATION PLANS

.0201 PURPOSE

The purpose of the Basinwide Restoration Plans is to identify wetlands and riparian areas within each of the 17 major river basins of the state that have the potential, through restoration, enhancement, creation or preservation, to contribute to the goals of the Wetlands Restoration Program.

History Note: Authority G.S. 143-214.10; 143-215.3;

Eff. August 1, 1998.

.0202 COMPONENTS

(a) The Basinwide Restoration Plans for each of the 17 major river basins shall consist of the following components:

- (1) an assessment of the existing wetlands and riparian area resources within each basin;
- (2) an assessment of the existing needs of the river basin as identified by the Department with input from other state and federal agencies, local governments, institutions of higher learning, non-profit organizations and the general public;
- (3) identification of areas that have the potential, if restored or enhanced, to contribute to the goals of the Basinwide Restoration Plans;
- (4) identification of wetland and riparian areas that have the potential, if preserved, to contribute to the

goals of the Basinwide Restoration Plans:

- (5) prioritization of the areas identified in Subparagraphs (3) and (4) of this Paragraph based on the area's ability to contribute to the specific goals of the Basinwide Restoration Plans and the needs of each river basin as identified in Subparagraph (2) of this Paragraph; and
 - (6) an outline of the specific goal to be accomplished through implementation of the Basinwide Restoration Plan.
- (b) During the period July 1, 1997 through June 30, 2002, the Department may develop and implement Basinwide Restoration Plans that include only the following information:
- (1) an assessment of the existing needs of the river basin as identified by the Department with input from other state and federal agencies, local governments, institutions of higher learning, non-profit organizations and the general public;
 - (2) identification of areas that have the potential, if restored or enhanced, to contribute to the specific goals of the Basinwide Restoration Plans;
 - (3) prioritization of the areas identified in Subparagraph (2) of this Paragraph based on the area's ability to contribute to the goals of the Basinwide Restoration Plans and the needs of each river basin as identified in Subparagraph (b)(1) of this Rule;
 - (4) identification of wetland and riparian areas that have the potential, if preserved, to contribute to the goals of the Basinwide Restoration Plans; and
 - (5) an outline of the specific goals to be accomplished through implementation of the Basinwide Restoration Plan.

History Note: Authority G.S. 143-214.10; 143-215.3;

Eff. August 1, 1998.

.0203 PUBLIC INVOLVEMENT; AVAILABILITY

(a) The Secretary, or the Secretary's designee, shall provide interested parties an opportunity to review and comment on the proposed Basinwide Restoration Plans.

(b) The Basinwide Restoration Plans shall be available for review in the offices of the Wetlands Restoration Program, Division of Water Quality, 512 North Salisbury Street, Raleigh, NC 27604.

History Note: Authority G.S. 143-214.10; 143-215.3;

Eff. August 1, 1998.

SECTION .0300 - COMPENSATORY MITIGATION

.0301 GENERAL

All projects implemented for the purpose of satisfying compensatory mitigation requirements of certifications issued by the Department under 33 USC § 1341; and permits or authorizations issued by the United States Army Corps of Engineers (Corps) under 33 USC § 1344, shall be consistent with the Basinwide Restoration Plan for the appropriate river

basin. A project is consistent with the Basinwide Restoration Plan if the project is located within an area that is identified as a priority for restoration in the Basinwide Restoration Plan; or is located at a site that is otherwise consistent with the goals outlined in the Basinwide Restoration Plan for the appropriate river basin; or is approved by the United States Army Corps of Engineers.

History Note: Authority G.S. 143-214.11; 143-214.12; 143-215.3;

Eff. August 1, 1998.

.0302 MITIGATION BANKS

(a) All sponsors of mitigation banks that submit a prospectus to the United States Army Corps of Engineers after the effective date of this Rule must provide the Secretary, or the Secretary's designee, documentation that the proposed mitigation bank is consistent with the approved Basinwide Restoration Plan for the appropriate river basin and meets the requirements of G.S. 143-214.11(f). A mitigation bank is consistent with the Basinwide Restoration Plans if the mitigation bank is located within an area that is identified as a priority for restoration in the Basinwide Restoration Plan; or is located at a site that is otherwise consistent with the goals outlined in the Basinwide Restoration Plan for the appropriate river basin; or is approved by the United States Army Corps of Engineers. The Secretary, or the Secretary's designee, shall provide comments concerning this documentation through participation on the Mitigation Bank Review Team in accordance with "Federal Guidance for the Establishment, Use and Operation of Mitigation Banks," found in Volume 60, Number 228 of the Federal Register, November 28, 1995. The signature of the Secretary, or the Secretary's designee, on the Mitigation Banking Instrument, described in the above guidance, shall be considered as a finding by the Department that the mitigation bank is consistent with the Basinwide Restoration Plan.

(b) Each credit in a proposed mitigation bank must include a minimum of one acre of restoration or creation as defined in 15A NCAC 2H .0506(h)(4).

History Note: Authority G.S. 143-214.11; 143-214.12; 143-215.3;

Eff. August 1, 1998.

SECTION .0400 - WETLANDS RESTORATION FUND

.0401 PURPOSE

This Section establishes the Wetlands Restoration Fund pursuant to G.S. 143-214.12.

History Note: Authority G.S. 143-214.11; 143-214.12; 143-215.3;

Eff. August 1, 1998.

.0402 SCHEDULE OF FEES

(a) The amount of payment into the Fund necessary to

achieve compliance with compensatory mitigation requirements shall be determined in accordance with Subparagraphs (1) through (3) of this Paragraph. The fee will be based on the acres and types of compensatory mitigation specified in the approved certifications issued by the Department under 33 USC § 1341; and permits or authorizations issued by the United States Army Corps of Engineers under 33 USC § 1344. Payments shall be rounded up in increments of linear feet for streams and in 0.25 acre increments for wetlands, e.g. for streams, 520.3 linear feet of compensatory mitigation would be considered as 521 feet, and for wetlands, 2.35 acres of required compensatory mitigation would be considered as 2.5 acres for the purpose of calculating the amount of payment.

- (1) Classified surface waters other than wetlands as defined in 15A NCAC 2B .0202. The payment shall be one hundred twenty-five dollars (\$125.00) per linear foot of stream.
- (2) Class WL wetlands as defined in 15A NCAC 2B .0101(c)(8). The payment shall be:
 - (A) Twelve thousand dollars (\$12,000) per acre for non-riparian wetlands.
 - (B) Twenty four thousand dollars (\$24,000) per acre for riparian wetlands.
- (3) Class SWL wetlands as defined in 15A NCAC 2B .0101(d)(4). The payment shall be one hundred twenty thousand dollars (\$120,000) per acre.

(b) The fees outlined in Subparagraphs (a)(1) through (a)(3) of this Rule shall be reviewed annually and compared to the actual cost of restoration activities conducted by the Department, including planning, monitoring and maintenance costs. Based upon this annual review, revisions to Paragraph (a) of this Rule will be recommended when adjustments to this Schedule of Fees are deemed necessary.

History Note: Authority G.S. 143-214.11; 143-214.12; 143-215.3;

Eff. August 1, 1998.

.0403 DONATION OF PROPERTY

(a) If approved by the Council of State, donations or dedications of interests in real property, for the purposes of restoration, enhancement, or preservation, may be accepted by the Secretary, or the Secretary's designee, if the property is consistent with the Basinwide Restoration Plan for the appropriate river basin subject to the factors listed in Paragraphs (b) and (c) of this Rule, or if the property interest is being donated to satisfy a condition of a certification issued by the Department under 33 USC § 1341. The property is consistent with the Basinwide Restoration Plan if the property is located within an area that is identified as a priority for restoration in the Basinwide Restoration Plan or is located at a site that is otherwise consistent with the goals outlined in the Basinwide Restoration Plan for the appropriate river basin.

(b) The factors that shall be considered by the Secretary, or the Secretary's designee, in determining whether to accept donations or dedications of interests in real property for the purposes of wetland or riparian area restoration or

enhancement include the following:

- (1) whether the property is adjacent to, or will become a part of, a Department approved restoration or preservation project; or is adjacent to or includes a sensitive natural resource, as identified in the Basinwide Restoration Plan; or is adjacent to or includes property with known occurrences of rare species as identified by the North Carolina Natural Heritage Program in the "Natural Heritage Program List of Rare Animal Species of North Carolina" or the "Natural Heritage Program List of the Rare Plant Species of North Carolina"; or is adjacent to or includes a Significant Natural Heritage Area as identified by the North Carolina Natural Heritage Program in the "North Carolina Natural Heritage Program Biennial Protection Plan, List of Significant Natural Heritage Areas." Copies of these documents may be obtained from the Department of Environment and Natural Resources, Division of Parks and Recreation, Natural Heritage Program, PO Box 27687, Raleigh, North Carolina 27611;
 - (2) whether the size of the property is at least five contiguous acres;
 - (3) the likelihood that the site can be successfully restored or enhanced, based on hydrology, soils, and vegetation;
 - (4) the extent of activities required to successfully restore or enhance the site. Sites requiring extreme measures for successful restoration, such as removal of structures or infrastructure, will not be accepted;
 - (5) absence of cultural and historic resources;
 - (6) prior, current, and future land use of the donated property and adjacent properties;
 - (7) existence of federally or state-listed sensitive, endangered, or threatened species, or their critical habitat;
 - (8) the potential for enhancement of natural resource values of public lands;
 - (9) absence of hazardous substance and solid waste;
 - (10) whether the property is adjacent to non-supporting, partially supporting, or support-threatened waters as designated by the Division of Water Quality pursuant to 40 CFR 131.10(a) through (g). This material is available for inspection at the Department of Environment and Natural Resources, Division of Water Quality, Water Quality Section, 512 North Salisbury Street, Raleigh, North Carolina;
 - (11) absence of encumbrances and conditions on the transfer of the property interests; and
 - (12) provisions have been made for the long term maintenance and management of the property.
- (c) The factors that shall be considered by the Secretary, or the Secretary's designee, in determining whether to accept donations or dedications of interests in real property for the purpose of preservation of existing wetland and riparian areas

include the following:

- (1) whether the property has clearly identifiable unique wetland or riparian area functions or values, such as federally or state-listed sensitive, endangered or threatened species, or their critical habitat;
 - (2) the potential for enhancement of natural resource values of public lands;
 - (3) whether the property is adjacent to, or will become a part of a Department approved restoration or preservation project; or is adjacent to or includes a sensitive natural resource, as identified in the Basinwide Restoration Plan; or is adjacent to or includes property with known occurrences of rare species as identified by the North Carolina Natural Heritage Program in the "Natural Heritage Program List of Rare Animal Species of North Carolina" or the "Natural Heritage Program List of the Rare Plant Species of North Carolina"; or is adjacent to or includes a Significant Natural Heritage Area as identified by the North Carolina Natural Heritage Program in the "North Carolina Natural Heritage Program Biennial Protection Plan, List of Significant Natural Heritage Areas." Copies of these documents may be obtained from the Department of Environment and Natural Resources, Division of Parks and Recreation, Natural Heritage Program, PO Box 27687, Raleigh, North Carolina 27611;
 - (4) whether the size of the property is at least five contiguous acres;
 - (5) whether the property is under imminent threat of degradation;
 - (6) prior, current, and future land use of the donated property and adjacent properties;
 - (7) absence of extensive structures and infrastructure;
 - (8) absence of hazardous substance and solid waste;
 - (9) absence of cultural and historic resources;
 - (10) whether the property is adjacent to non-supporting, partially supporting, or support-threatened waters as designated by the Division of Water Quality pursuant to 40 CFR 131.10(a) through (g). This material is available for inspection at the Department of Environment and Natural Resources, Division of Water Quality, Water Quality Section, 512 North Salisbury Street, Raleigh, North Carolina;
 - (11) absence of encumbrances and conditions on the transfer of the property interests; and
 - (12) provisions have been made for the long term maintenance and management of the property.
- (d) At the expense of the applicant or donor, the following information must be submitted with any proposal for donations or dedications of interest in real property:
- (1) documentation that the property meets the criteria outlined in Paragraph (b) and (c) of this Rule;
 - (2) US Geologic Survey 1:24,000 (7.5 minute) scale topographic map, county tax map, USDA Natural Resource Conservation Service County Soil Survey

Map, and county road map showing the location of the property to be donated along with information on existing site conditions, vegetation types, presence of existing structures and easements:

- (3) a current property survey performed in accordance with the procedures of the North Carolina Department of Administration, State Property Office as identified by the State Board of Registration for Professional Engineers and Land Surveyors in "Standards of Practice for Land Surveying in North Carolina." Copies may be obtained from the North Carolina State Board of Registration for Professional Engineers and Land Surveyors, 3620 Six Forks Road, Suite 300, Raleigh, North Carolina 27609;
- (4) a current appraisal of the value of the property performed in accordance with the procedures of the North Carolina Department of Administration, State Property Office as identified by the Appraisal Board in the "Uniform Standards of Professional North Carolina Appraisal Practice." Copies may be obtained from the Appraisal Foundation, Publications Department, PO Box 96734, Washington, D.C. 20090-6734;
- (5) a title certificate; and
- (6) documentation that the property does not contain structures that present health or safety problems to the general public. If wells, septic, water or sewer connections exist, they shall be filled, remediated or closed at owner's expense, and in accordance with state and local health and safety regulations.

(e) In addition to the factors outlined in Paragraphs (b) through (d) of this Rule, the Secretary, or the Secretary's designee, shall consider the following factors when determining whether to accept a donation of interest in real property to satisfy compensatory mitigation requirements:

- (1) whether restoration of the property will offset the adverse impacts of the permitted project; and
- (2) whether the adverse impacts of the permitted project are within the same subbasin as the property proposed for donation.

(f) Donations of interests in real property for the purpose of satisfying compensatory mitigation requirements will only be considered for acceptance when the proposed donation will offset an impact for which an application has already been made to the United States Army Corps of Engineers under 33 USC § 1344 or to the Department under 33 USC § 1341.

(g) For the purposes of satisfying compensatory mitigation requirements through the donation of interests in real property, for property requiring restoration, enhancement, or preservation, the size of property to be donated must equal or exceed the acreage of wetland required to be mitigated under the approved permit and every parcel must be a minimum of five contiguous acres in size.

(h) Donation of real property interests to satisfy compensatory mitigation requirements will only be accepted if such property meets the requirements of Paragraphs (a) through (i) of this Rule and 15A NCAC 2H .0506(h) and

satisfies the compensatory mitigation requirements of the approved permit.

(i) The donation of conservation easements to satisfy compensatory mitigation requirements will only be accepted if the conservation easement is granted in perpetuity and the property to be encumbered meets the requirements of Paragraphs (a) through (j) of this Rule, or if the property interest is being donated to satisfy a condition of a certification issued by the Department under 33 USC § 1341.

(j) Donation of interests in real property may contribute to or fulfill compensatory mitigation requirements that may be satisfied through payment of a fee as outlined in the Schedule of Fees in Rule .0402(a) of this Section. The value of the property interest shall be determined by an appraisal performed in accordance with Subparagraph (d)(4) of this Rule. The required fee as calculated in accordance with Rule .0402(a) of this Section shall be satisfied if the appraised value of the donated property interest is equal to or greater than the fee. If the appraised value of the donated property interest is less than the designated fee requirement as calculated in accordance with Rule .0402(a) of this Section, the applicant shall pay the remaining balance due.

History Note: Authority G.S. 143-214.11; 143-214.12; 143-215.3;

Eff. August 1, 1998.

CHAPTER 3 - MARINE FISHERIES

SUBCHAPTER 3J - NETS, POTS, DREDGES, AND OTHER FISHING DEVICES

SECTION .0200 - NET RULES, SPECIFIC AREAS

.0202 ATLANTIC OCEAN

In the Atlantic Ocean:

- (1) It is unlawful to use nets from June 15 through August 15 in the waters of Masonboro Inlet or in the ocean within 300 yards of the beach between Masonboro Inlet and a line running 138° through the water tank on the northern end of Wrightsville Beach, a distance parallel with the beach of 4,400 yards.
- (2) It is unlawful to use trawls within one-half mile of the beach between the Virginia line and Oregon Inlet.
- (3) It is unlawful to use a trawl with a mesh length less than four inches in the main body, three inches in the extension, and one and three-fourths inches in the cod end or tail bag inshore of a line beginning at a point 34° 41' 18" N - 76° 40' 08" W on the western side of Beaufort Inlet Channel (the present location of buoy "11" QK F1); thence westward parallel to and one-half mile from the ocean back to a point 34° 40' 32" N - 76° 53' 45" W off Salter Path.
- (4) It is unlawful to use trawl nets, including flynets, southwest of the 9960-Y chain 40250 LORAN C

line (running offshore in a southeasterly direction) from Cape Hatteras to the North Carolina-South Carolina line except:

- (a) Shrimp trawls as defined in 15A NCAC 3L .0103;
 - (b) Crab trawls as defined in 15A NCAC 3L .0202; or
 - (c) Flounder trawls as defined in 15A NCAC 3M .0503.
- (5) Finfish taken with shrimp or crab trawls:
- (a) It is unlawful to possess finfish (including pursuant to 15A NCAC 3M .0102) incidental to shrimp or crab trawl operations from December 1 through March 31 unless the weight of the combined catch of shrimp and crabs exceeds the weight of finfish except as provided in Sub-Item (5)(b) of this Rule;
 - (b) It is lawful to possess 300 pounds of kingfish (*Menticirrhus*, sp.) taken south of Bogue Inlet regardless of the amount of shrimp, crabs or finfish taken.
- (6) It is unlawful to use unattended gill nets or block or stop nets in the Atlantic Ocean within 300 yards of the beach from Beaufort Inlet to the South Carolina line from sunset Friday to sunrise Monday from Memorial Day through Labor Day.
- (7) It is unlawful to use gill nets in the Atlantic Ocean with a mesh length greater than seven inches from April 15 through December 15.
- (8) It is unlawful to use shrimp trawls in all waters west of a line beginning at the southeastern tip of Baldhead Island 33° 50' 29" N - 77° 57' 28" W running 173° (M) to a point in the Atlantic Ocean 33° 46' 16" N - 77° 56' 24" W from one hour after sunset to one hour before sunrise.

History Note: Authority G.S. 113-134; 113-182; 143B-289.4; Eff. January 1, 1991; Amended Eff. August 1, 1998; March 1, 1996; September 1, 1991.

CHAPTER 7 - COASTAL MANAGEMENT

SUBCHAPTER 7H - STATE GUIDELINES FOR AREAS OF ENVIRONMENTAL CONCERN

SECTION .1600 - GENERAL PERMIT FOR THE INSTALLATION OF AERIAL AND SUBAQUEOUS UTILITY LINES WITH ATTENDANT STRUCTURES IN COASTAL WETLANDS; ESTUARINE WATERS; PUBLIC TRUST WATERS AND ESTUARINE SHORELINES

.1604 GENERAL CONDITIONS

(a) Utility lines for the purpose of this general permit or any pipes or pipelines for the transportation of potable water, domestic sanitary sewage, natural gas, and any cable, line, or

wire for the transmission, for any purpose, of electrical energy, telephone and telegraph messages, and radio and television communication.

(b) There must be no resultant change in preconstruction bottom contours. Authorized fill includes only that necessary to backfill or bed the utility line. Any excess material must be removed to an upland disposal area.

(c) The utility line crossing will not adversely affect a public water supply intake.

(d) The utility line route or construction method will not disrupt the movement of those species of aquatic life indigenous to the waterbody.

(e) Individuals shall allow authorized representatives of the Department of Environment, Health, and Natural Resources to make periodic inspections at any time necessary to ensure that the activity being performed under authority of this general permit is in accordance with the terms and conditions prescribed herein.

(f) This general permit will not be applicable to proposed construction where the Department has determined, based on an initial review of the application, that notice and review pursuant to G.S. 113A-119 is necessary because there are unresolved questions concerning the proposed activity's impact on adjoining properties or on water quality; air quality; coastal wetlands; cultural or historic sites; wildlife; fisheries resources; or public trust rights.

(g) This permit does not eliminate the need to obtain any other required state, local, or federal authorization, nor, to abide by regulations adopted by any federal or other state agency.

(h) Development carried out under this permit must be consistent with all local requirements, AEC guidelines, and local Land Use Plans current at the time of authorization.

History Note: Authority G.S. 113-229(c1); 113A-107(a)(b); 113A-113(b); 113A-118.1; Eff. March 1, 1985; Amended Eff. May 1, 1990; RRC Objection due to ambiguity Eff. May 19, 1994; Amended Eff. August 1, 1998; July 1, 1994.

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10B - HUNTING AND TRAPPING

SECTION .0100 - GENERAL REGULATIONS

.0113 BIG GAME KILL REPORTS

The carcass of each bear, wild turkey, and deer (except antlerless deer harvested on areas in the Deer Management Assistance Program as described in G.S. 113-291.2(e)) shall be tagged at the site of the kill with the appropriate big game tag which has been validated by cutting out the month and day of the kill.

All harvested bear, deer, wild turkey, and wild boar must be registered at a Wildlife Cooperator Agent or reported through the toll free Big Game Telephone Reporting System, before

they are skinned or dressed or dismembered for consumption except in those cases where the kill occurs in a remote area which prevents the animal from being transported as an entire carcass. In these cases, the carcass may be tagged, skinned, quartered, and transported to the Wildlife Cooperator Agent for reporting or reported within 24 hours through the Big Game Telephone Reporting System. A Wildlife Cooperator Agent located within the immediate area of open season shall supply an authorization number or an authorization number may be obtained through the Big Game Telephone Reporting System. The tag shall be affixed to the carcass at a location and in such manner as to be visible upon inspection from the outside, and it is unlawful to affix the tag at any location or in any manner so as to conceal it from visibility upon ordinary inspection. It is unlawful to remove the tag from the carcass prior to the kill being properly reported either through a Wildlife Cooperator Agent or through the Big Game Telephone Reporting System or at any time thereafter until the carcass is finally skinned or dressed for consumption. The authorization number given through the Big Game Telephone Reporting System or a Wildlife Cooperator Agent must be recorded on the appropriate line of the hunter's Big Game Harvest Authorization Record provided with their license and shall thereafter constitute his permit to continue in possession of the carcass. Otherwise, the continued possession of the bear, wild turkey, deer or wild boar shall be unlawful.

Persons who are by law exempt from the big game hunting license are not required to tag the carcass but shall report each kill as above required, and, in lieu of the tag and Big Game Harvest Authorization Record, the hunter shall record the authorization number and retain it to thereafter constitute his permit to continue in possession of the carcass. The word "exempt" together with the reason therefor (parent's license, landowner, agricultural lessee) shall be written on the hunter's record and the registration form at the Wildlife Cooperator Agent.

Persons killing a deer under the Deer Management Assistance Program and not required to use the tag provided with the Big Game License must not record their authorization number on the Big Game Authorization Record but must keep a separate record of the authorization numbers obtained for deer killed under this program.

Any big game tag which has been detached from the backing or tag card issued with the big game license prior to the killing and tagging of the big game animal may be seized by a wildlife enforcement officer, if there is evidence of prior use.

History Note: Authority G.S. 113-134; 113-270.3; 113-276.1;
Eff. February 1, 1976;
Amended Eff. July 1, 1998; July 1, 1997; July 1, 1995; July 1, 1994; July 1, 1993; July 1, 1989.

SECTION .0200 - HUNTING

.0202 BEAR

(a) Open Seasons for bear shall be from the:

- (1) Monday on or nearest October 15 to the Saturday before Thanksgiving and the third Monday after Thanksgiving to January 1 in and west of the boundary formed by NC 16 from the Virginia State line to Wilkesboro and NC 18 from Wilkesboro to the South Carolina State line.
 - (2) Second Monday in November to the following Saturday and the third Monday after Thanksgiving to the following Wednesday in all of Beaufort, Bertie, Camden, Craven, Dare, Gates, Hertford, Hyde, Jones, Pamlico, Pasquotank, Tyrrell, and Washington counties; and in the following parts of counties:

Chowan:	that part north of a line formed by SR 1002, SR 1222 and SR 1221.
Currituck:	except Knotts Island and the Outer Banks.
Halifax:	that part east of US 301.
Martin:	that part east of US 17.
Northampton:	that part east of US 301.
 - (3) Second Monday in November to January 1 in all of Bladen, Carteret, Duplin, New Hanover, Onslow and Pender counties; and in the following parts of counties:

Cumberland:	that part south of NC 24 and east of the Cape Fear River.
Sampson:	that part south of NC 24.
 - (4) Second Monday in December to January 1 in Brunswick and Columbus counties.
- (b) No Open Season. There is no open season in any area not included in Paragraph (a) of this Rule or in those parts of counties included in the following posted bear sanctuaries:
- Avery, Burke and Caldwell counties--Daniel Boone bear sanctuary
 Beaufort, Bertie and Washington counties--Bachelor Bay bear sanctuary
 Beaufort and Pamlico counties--Gum Swamp bear sanctuary
 Bladen County--Suggs Mill Pond bear sanctuary
 Brunswick County--Green Swamp bear sanctuary
 Buncombe, Haywood, Henderson and Transylvania counties--Pisgah bear sanctuary
 Carteret, Craven and Jones counties--Croatan bear sanctuary
 Clay County--Fires Creek bear sanctuary
 Columbus County--Columbus County bear sanctuary
 Currituck County--North River bear sanctuary
 Dare County--Bombing Range bear sanctuary
 Haywood County--Harmon Den bear sanctuary
 Haywood County--Sherwood bear sanctuary
 Hyde County--Gull Rock bear sanctuary
 Hyde County--Pungo River bear sanctuary
 Jackson County--Panthertown-Bonas Defeat bear sanctuary
 Jones and Onslow counties--Hofmann bear sanctuary

Macon County--Standing Indian bear sanctuary
 Macon County--Wayah bear sanctuary
 Madison County--Rich Mountain bear sanctuary
 McDowell and Yancey counties--Mt. Mitchell bear sanctuary
 Mitchell and Yancey counties--Flat Top bear sanctuary
 Wilkes County--Thurmond Chatham bear sanctuary

(c) Bag limits shall be:

- (1) daily, one;
- (2) possession, one;
- (3) season, one.

(d) Kill Reports. The carcass of each bear shall be tagged and the kill reported as provided by 15A NCAC 10B .0113.

History Note: Authority G.S. 113-134; 113-291.2; 113-291.7; 113-305;

Eff. February 1, 1976;

Amended Eff. July 1, 1998; September 1, 1995; July 1, 1995; July 1, 1994; April 1, 1992.

.0203 DEER (WHITE-TAILED)

(a) Closed Season. All counties and parts of counties not listed under the open seasons in Paragraph (b) in this Rule shall be closed to deer hunting.

(b) Open Seasons (All Lawful Weapons)

- (1) Deer With Visible Antlers. Deer with antlers or spikes protruding through the skin, as distinguished from knobs or buttons covered by skin or velvet, may be taken during the following seasons:

(A) Monday on or nearest October 15 through January 1 in all of Beaufort, Bertie, Bladen, Brunswick, Camden, Carteret, Chowan, Columbus*, Craven, Currituck, Dare, Duplin, Edgecombe, Franklin, Gates, Greene, Halifax, Hertford, Hoke, Hyde, Johnston, Jones, Lenoir, Martin, Nash, New Hanover, Northampton, Onslow, Pamlico, Pasquotank, Pender, Perquimans, Pitt, Richmond**, Robeson, Sampson, Scotland**, Tyrrell, Vance, Wake, Warren, Washington, Wayne, and Wilson counties, and the following parts of counties:
 Cumberland: All of the county except that part east of US 401, north of NC 24, and west of I-95;

Harnett: That part west of NC 87;

Moore**: All of the county except that part north of NC 211 and west of US 1;

*Unlawful to hunt or kill deer in Lake Waccamaw or within 50 yards of its shoreline.

**See 15A NCAC 10D .0003(f)(52)(B) for seasons on Sandhills Game Land.

(B) Monday of Thanksgiving week through the third Saturday after Thanksgiving Day in all of Alexander, Alleghany, Ashe, Catawba, Davie, Forsyth, Gaston, Iredell, Lincoln,

Stokes, Surry, Watauga, Wilkes, and Yadkin counties.

(C) Monday of Thanksgiving week through the third Saturday after Thanksgiving Day in all of Avery, Buncombe, Burke, Caldwell, Cherokee, Clay, Cleveland, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk, Rutherford, Swain, Transylvania, and Yancey counties.

(D) Monday before Thanksgiving week through January 1 in all of Alamance, Anson, Cabarrus, Caswell, Chatham, Davidson, Durham, Granville, Guilford, Lee, Mecklenburg, Montgomery, Orange, Person, Randolph, Rockingham, Rowan, Stanly, and Union counties, and in the following parts of counties:

Cumberland: That part east of US 401, north of NC 24 and west of I-95;

Harnett: That part east of NC 87;

Moore: That part north of NC 211 and west of US 1;

(E) Monday on or nearest September 10 through January 1 in those parts of Camden, Gates and Pasquotank counties known as the Dismal Swamp National Wildlife Refuge, in those parts of Hyde, Tyrrell and Washington counties known as the Pocosin Lakes National Wildlife Refuge, in those parts of Anson and Richmond counties known as the Pee Dee National Wildlife Refuge, and in that part of Currituck County known as the Mackay Island National Wildlife Refuge.

(2) Deer of Either Sex. Except on Game Lands, deer of either sex may be taken during the open seasons and in the counties and portions of counties listed in this Subparagraph (See 10D .0003 for either sex seasons on Game Lands):

(A) The open either-sex deer hunting dates established by the U.S. Fish and Wildlife Service during the period from the Monday on or nearest September 10 through January 1 in those parts of Camden, Gates and Pasquotank counties known as the Dismal Swamp National Wildlife Refuge, in those parts of Hyde, Tyrrell and Washington counties known as the Pocosin Lakes National Wildlife Refuge, in those parts of Anson and Richmond counties known as the Pee Dee National Wildlife Refuge, and in that part of Currituck County known as the Mackay Island National Wildlife Refuge.

(B) The open either-sex deer hunting dates established by the appropriate military commands during the period from Monday on or nearest October 15 through January 1 in that part of Brunswick County known as

the Sunny Point Military Ocean Terminal, in that part of Craven County known and marked as Cherry Point Marine Base, in that part of Onslow County known and marked as the Camp Lejeune Marine Base, on Fort Bragg Military Reservation, and on Camp Mackall Military Reservation.

- (C) First Saturday in October for youth either sex deer hunting by permit only on a portion of Belews Creek Steam Station in Stokes County designated by agents of the Commission.
- (D) The last open day of the Deer with Visible Antlers season described in Subparagraph (b)(1) of this Rule in all of Buncombe, Haywood, Henderson, Madison, Mitchell, Polk, Transylvania, and Yancey counties and the following parts of counties:
 Avery: That part south of the Blue Ridge Parkway.
 Robeson: That part west of I-95.
 Scotland: That part south of US 74.
- (E) The last six open days of the Deer With Visible Antlers season described in Subparagraph (b)(1) of this Rule in all of Burke, Caldwell, Catawba, Gaston, Lincoln, McDowell, and Watauga and the following parts of counties:
 Camden: That part south of US 158.
 Dare: Except the Outer Banks north of Whalebone.
- (F) The first six open days and the last six open days of the Deer with Visible Antlers season described in Subparagraph (b)(1) of this Rule in all of Carteret, Cleveland, Harnett, Hoke, Pamlico, Richmond, Rutherford, counties and in the following parts of counties:
 Columbus: That part west of US 74, SR 1005, and SR 1125.
 Cumberland: That part west of I-95.
 Moore: All of the county except that part north of NC 211 and west of US 1.
 Robeson: That part east of I-95.
 Scotland: That part north of US 74.
- (G) The first six open days, open days the week of Thanksgiving, and the last six open days of the Deer with Visible Antlers season described in Subparagraph (b)(1) of this Rule in all of Greene, Pasquotank, Tyrrell, Wayne and Wilson counties and in the following parts of counties:
 Camden: That part north of US 158.
 Chowan: That part north of US 17 and west of NC 32.
 Currituck: All of the county except the Outer Banks.
 Nash: That part south of US 64.
 Johnston: That part north of US 70 or west of I-95.

- (H) All the open days of the Deer With Visible Antlers season described in Subparagraph (b)(1) of this Rule in all of Alamance, Alexander, Alleghany, Anson, Ashe, Beaufort, Bertie, Bladen, Brunswick, Cabarrus, Caswell, Chatham, Craven, Davidson, Davie, Duplin, Durham, Edgecombe, Forsyth, Franklin, Gates, Granville, Guilford, Halifax, Hertford, Hyde, Iredell, Jones, Lee, Lenoir, Martin, Mecklenburg, Montgomery, New Hanover, Northampton, Onslow, Orange, Pender, Perquimans, Person, Pitt, Randolph, Rockingham, Rowan, Sampson, Stanly, Stokes, Surry, Union, Vance, Wake, Warren, Washington, Wilkes and Yadkin counties, and in the following parts of counties:
 Buncombe: that part east of NC 191, south of the French Broad and Swannanoa Rivers, west of US 25, and north of SR 3503, NC 146 and SR 3501.
 Chowan: That part south of US 17 or east of NC 32.
 Columbus: That part east of a line formed by US 74, SR 1005, and SR 1125.
 Cumberland: that part east of I-95.
 Dare: That part of the Outer Banks north of Whalebone.
 Johnston: That part south of US 70 and east of I-95.
 Moore: that part north of NC 211 and west of US 1.
 Nash: That part north of US 64.
- (c) Open Seasons (Bow and Arrow)
 - (1) Authorization. Subject to the restrictions set out in Subparagraph (2) of this Paragraph and the bag limits set out in Paragraph (e) of this Rule, deer of either sex may be taken with bow and arrow during the following seasons:
 - (A) Monday on or nearest September 10 to the fourth Saturday thereafter in the counties and parts of counties having the open season for Deer With Visible Antlers specified by Part (A) of Subparagraph (b)(1) of this Rule, except on the Sandhills Game Land and the area known as the Outer Banks in Currituck County.
 - (B) Monday on or nearest September 10 to the second Saturday before Thanksgiving in the counties and parts of counties having the open seasons for Deer With Visible Antlers specified by Part (B) of Subparagraph (b)(1) of this Rule.
 - (C) Monday on or nearest September 10 to the fourth Saturday thereafter, and Monday on or nearest October 15 to the Saturday before Thanksgiving in the counties and parts of counties having the open seasons for Deer

With Visible Antlers specified by Part (C) of Subparagraph (b)(1) of this Rule.

- (D) Monday on or nearest September 10 to the third Saturday before Thanksgiving in the counties and parts of counties having the open season for Deer With Visible Antlers specified by Part (D) of Subparagraph (b)(1) of this Rule, and on Sandhills Game Land.
- (2) Restrictions
 - (A) Dogs may not be used for hunting deer during the bow and arrow season.
 - (B) It is unlawful to carry any type of firearm while hunting with a bow during the bow and arrow deer hunting season.
 - (C) Only bows and arrows of the types authorized in 15A NCAC 10B .0116 for taking deer may be used during the bow and arrow deer hunting season.
- (d) Open Seasons (Muzzle-Loading Rifles and Shotguns)
 - (1) Authorization. Subject to the restrictions set out in Subparagraph (2) of this Paragraph, deer may be taken only with muzzle-loading firearms (except that bow and arrow may be used on designated and posted game land Archery Zones) during the following seasons:
 - (A) Monday on or nearest October 8 to the following Saturday in the counties and parts of counties having the open seasons for Deer With Visible Antlers specified by Parts (A) and (C) of Subparagraph (b)(1) of this Rule, except on Sandhills Game Land and the area known as the Outer Banks in Currituck County.
 - (B) Monday to Saturday of the week preceding Thanksgiving week in the counties and parts of counties having the open seasons for Deer With Visible Antlers specified by Part (B) of Subparagraph (b)(1) of this Rule.
 - (C) Monday to Saturday of the second week before Thanksgiving week in the counties and parts of counties having the open season for Deer With Visible Antlers specified by Part (D) of Subparagraph (b)(1) of this Rule, and on Sandhills Game Land.
 - (2) Restrictions
 - (A) Deer of either sex may be taken during muzzle-loading firearms season in and east of the following counties: Rutherford, McDowell, Burke, Caldwell, Wilkes, and Ashe. Deer of either sex may be taken on the last day of muzzle-loading firearms season in all other counties.
 - (B) Dogs shall not be used for hunting deer during the muzzle-loading firearms seasons.
 - (C) Pistols shall not be carried while hunting deer during the muzzle-loading firearms seasons.
- (e) The daily bag limit shall be two and the possession limit

six, two of which shall be antlerless. The season limit shall be six, two of which shall be antlerless. Antlerless deer include males with knobs or buttons covered by skin or velvet as distinguished from spikes protruding through the skin. The antlerless bag limits described above do not apply to antlerless deer harvested in areas covered in the Deer Management Assistance Program as described in G.S. 113-291.2(e). Individual daily antlerless bag limits on these areas shall be determined by the number of special tags, issued by the Division of Wildlife Management as authorized by the Executive Director, that shall be in the possession of the hunter. Season antlerless bag limits shall be set by the number of tags available. All antlerless deer harvested on these areas, regardless of the date of harvest, shall be tagged with these special tags but do not have to be tagged with Big Game Tags provided with the hunting license.

(f) Kill Reports. The carcass of each deer shall be tagged and the kill reported as provided by 15A NCAC 10B .0113.

History Note: Authority G.S. 113-134; 113-270.3; 113-276.1; 113-291.1; 113-291.2;

Eff. February 1, 1976;

Amended Eff. July 1, 1998; July 1, 1997; July 1, 1996, July 1, 1995; December 1, 1994; July 1, 1994; July 1, 1993.

.0209 WILD TURKEY (BEARDED TURKEYS ONLY)

(a) Open Season for wild turkey shall be from the: Second Saturday in April to Saturday of the fourth week thereafter on bearded turkeys in the following counties: Alamance, Alexander, Alleghany, Ashe, Avery, **Bladen, Buncombe, Burke, Caldwell, Caswell, Catawba, **Chatham, Cherokee, Clay, Cleveland, Davie, **Durham, Edgecombe, Forsyth, Gates, Graham, **Granville, Halifax, Harnett, Haywood, Henderson, Hertford, Jackson, Jones, Lee, Lincoln, Macon, Madison, McDowell, Mitchell, Montgomery, Northampton, Onslow, **Orange, Person, Polk, **Richmond, Rockingham, Rutherford, **Scotland, Stokes, Surry, Swain, Transylvania, Vance, Warren, Watauga, Wilkes, Yadkin, Yancey and in the following portions of counties:

Anson: That part east of US 52 and north of US 74 and that part east of NC 145 and south of US 74.

Beaufort: That part south of the Pamlico River and east of US 17.

**Bertie: All of the county except that part south of NC 42, west of NC 45, north of NC 308, and east of US 13.

Brunswick: That part west of NC 211 and that part east of NC 87.

Cabarrus: That part south of I-85, east of US 601 Business, and north of NC 49.

Carteret: That part west of US 70 and north of NC 24.

Chowan: That part south of US-17.

Columbus: That part north of NC 87 and that part east of NC 905 and south of NC 130.

Craven: All of the county except that part west of US 17 and north of NC 118.

Cumberland: That part west of NC 53 or I-95.
 Davidson: That part south of I-85.
 Franklin: All of the county except that part north of the Tar River and west of US 401.
 Guilford: That part north of I-40.
 Hoke: That part south and west of NC 211 and that part known as Fort Bragg.
 Hyde: Starting at the Tyrrell County line, that part west of a line formed by NC 94, US 264 West, SR 1124 to Judges Quarter then Quarter Canal to Juniper Bay.
 Iredell: That part north of US 70.
 Johnston: That part east of I-95.
 **Martin: All of the county except that part west of US 17 and south of US 64.
 **Moore: That part south of NC 211 and that part known as Fort Bragg.
 Nash: All of the county except that part east of NC 581 and south of US 64.
 New Hanover: Starting at the Brunswick County line, that part north and west of a line formed by NC-133 and SR 1002.
 Pamlico: That part west of NC 306.
 **Pender: All of the county except that part west of I-40, north of NC 53, and east of US 421.
 Perquimans: That part west of the Perquimans River and south of SR 1110 and US 17 Business.
 Randolph: That part west of US 220 and north of US 64 and that part west of US 220 and south of NC 49.
 Robeson: That part east of I-95 and north of US 74.
 Rowan: That part southeast of I-85.
 Sampson: All of the county except that part east of NC 242, south of NC 411, and west of US 701.
 Union: That part south of NC 74 and west of NC 207.
 **Wake: That part north of I-40.

Wayne: That part south of US-70 and east of US-117 and that part south of SR 1007 and north of SR 1008.

**The Sandhills Game Land in Richmond, Scotland, and Moore Counties, the Bladen Lakes State Forest Game Lands in Bladen County, the Northeast Cape Fear Wetlands Game Lands in Pender County, the Jordan Game Land in Chatham, Durham, Orange, and Wake Counties, the Butner-Falls of the Neuse Game Land in Durham, Granville, and Wake Counties, and the Roanoke River Wetlands in Bertie, Halifax, and Martin Counties are closed to turkey hunting except by holders of special permits authorizing turkey hunting as provided in G.S. 113-264(d).

(b) Bag Limits shall be:

- (1) daily, one;
- (2) possession, two;
- (3) season, two.

(c) Dogs Prohibited. It is unlawful to use dogs for hunting turkeys.

(d) Kill Reports. The carcass of each wild turkey shall be tagged and the kill reported as provided by 15A NCAC 10B .0113.

History Note: Authority G.S. 113-134; 113-270.3; 113-276.1; 113-291.2;

Eff. February 1, 1976;

Amended Eff. July 1, 1998; July 1, 1997; July 1, 1996; July 1, 1995; July 1, 1994; July 1, 1993; July 1, 1992.

.0216 FALCONRY

(a) Seasons. Except as provided in Paragraphs (d) and (e) of this Rule, the open seasons for the practice of falconry as permitted by the rules contained in 15A NCAC 10H .0800 shall coincide with the regular open seasons contained in this Section for squirrels, rabbits, quail, ruffed grouse and pheasant, and with the open seasons set forth in the Code of Federal Regulations for migratory game birds in this state.

(b) Bag Limits. The daily bag, possession and season limits set forth in this Section for squirrels, rabbits, quail, ruffed grouse and pheasant and the daily bag, field possession, and total possession limits set forth in the Code of Federal Regulations for migratory game birds shall apply to falconry except as provided in Paragraph (e) of this Rule.

(c) Out of Season Kills. When any raptor being used in falconry kills any species of wildlife for which there is no open season or a species of game on which the season is then closed, the falconer or person using such raptor shall not take such dead wildlife into his possession but shall leave the same where it lies, provided that the said raptor may be allowed to feed on such dead wildlife before leaving the site of the kill. If the species so killed is a resident species of game on which there is a season limit, the kill shall be included as part of the season limit of the person using the raptor for falconry.

(d) Hunting After Limit Taken

- (1) When any falconer shall have taken a daily bag limit of any species of wildlife named or included in Paragraph (a) of this Rule, regardless of the manner of such taking, such falconer shall not release any raptor during the remainder of the day.
- (2) When any falconer shall have in his actual or constructive possession a possession limit of any species of wildlife named or included in Paragraph (a) of this Rule, regardless of the manner in which such limit was taken, such falconer shall not thereafter release any raptor for falconry purposes until the number of such species in his possession shall be reduced to a number below such possession limit.
- (3) When any falconer shall have taken a season limit of any species of wildlife named in Paragraph (a) of this Rule, regardless of the manner in which such limit was taken, such falconer shall not during the remainder of the applicable falconry season release any raptor for falconry purposes.

(e) Extended Seasons. An extended falconry season on gray and red squirrels and rabbits shall be the Monday on or nearest October 15 until the last day of February. Bag limits

for those portions of the season outside the regular seasons shall be 4 squirrels daily. Possession 8; and 3 rabbits daily. Possession 6.

History Note: Authority G.S. 113-134; 113-270.3(b)(4); 50 C.F.R. 21.28; 50 C.F.R. 21.29;

Eff. September 1, 1979;

Amended Eff. July 1, 1998.

SUBCHAPTER 10C - INLAND FISHING REGULATIONS

SECTION .0200 - GENERAL REGULATIONS

.0203 RECIPROCAL LICENSE AGREEMENTS

(a) Virginia. In accordance with a reciprocal license agreement between the States of Virginia and North Carolina, all valid licenses and permits authorizing sport fishing and legally obtained from the Virginia Commission of Game and Inland Fisheries or the North Carolina Wildlife Resources Commission, or the duly authorized agents of either, shall be reciprocally honored for fishing by means of rod and reel, hook and line, casting, or trotline in the Dan River east of the Brantly Steam Plant Dam at Danville, and east of the Rte. 360 bridge on the Staunton River arm of Kerr Reservoir to the Gaston Dam on the Roanoke River, including all tributary waters lying in either Virginia or North Carolina which are accessible by boat from the main bodies of the Kerr and Gaston Reservoirs, or from the Island Creek subimpoundment. The Rte. 360 bridge is the first bridge crossing the Staunton River upstream of Kerr Reservoir. Senior citizen and juvenile license exemptions authorized by either state will be honored by both states. In addition, all valid fishing licenses and permits legally obtained from the Virginia Game and Fish Commission or the North Carolina Wildlife Resources Commission, or the duly authorized agents of either, shall be reciprocally honored for fishing with rod and reel, hook and line or by casting in that portion of the New River between the confluence of the North and South forks of the New River in North Carolina (Alleghany County) and the confluence of the New and Little Rivers in Virginia (Grayson County).

(b) Georgia. In accordance with a reciprocal license agreement between the States of North Carolina and Georgia, all valid statewide fishing licenses, permits and license exemptions required by and legally obtained from the North Carolina Wildlife Resources Commission or the Georgia Department of Natural Resources, or duly authorized agents of either, shall be reciprocally honored for the purposes of fishing with hook and line in all of Chatuge Reservoir including all tributary waters lying in either Georgia or North Carolina which are accessible by boat from the main body of Chatuge Reservoir. All persons fishing in the waters of Chatuge Reservoir beyond the bounds of the state from which they hold a valid fishing license, shall be authorized to fish with said license only from boats not anchored to the shore or to a pier or boat dock connecting to the shore.

(c) Tennessee. In that portion of Slick Rock Creek which coincides with the state line between North Carolina and

Tennessee and in all of Calderwood Reservoir, when fishing from boat, all valid statewide fishing licenses obtained from the North Carolina Wildlife Resources Commission or the Tennessee Wildlife Resources Agency, or the duly authorized agents of either, shall be reciprocally honored for the purposes of fishing with hook and line or fishing in designated mountain trout waters, according to the tenor thereof.

History Note: Authority G.S. 113-134; 113-275; 113-304; *Eff. February 1, 1976;*

Amended Eff. July 1, 1998; July 1, 1995; July 1, 1991.

.0205 PUBLIC MOUNTAIN TROUT WATERS

(a) Designation of Public Mountain Trout Waters. The waters listed herein or in 15A NCAC 10D .0004 are designated as Public Mountain Trout Waters and further classified as Wild Trout Waters or Hatchery Supported Waters. For specific classifications, see Subparagraphs (1) through (6) of this Paragraph. These waters are posted and lists thereof are filed with the clerks of superior court of the counties in which they are located:

(1) Hatchery Supported Trout Waters. The listed waters in the counties in Subparagraphs (1)(A)-(Y) are classified as Hatchery Supported Public Mountain Trout Waters. Where specific watercourses or impoundments are listed, indentation indicates that the watercourse or impoundment listed is tributary to the next preceding watercourse or impoundment listed and not so indented. This classification applies to the entire watercourse or impoundment listed except as otherwise indicated in parentheses following the listing. Other clarifying information may also be included parenthetically. The tributaries of listed watercourses or impoundments are not included in the classification unless specifically set out therein. Otherwise, Wild Trout regulations apply to the tributaries.

(A) Alleghany County:

New River (not trout water)

Little River (Whitehead to McCann Dam)

Crab Creek

Brush Creek (except where posted against trespass)

Big Pine Creek

Laurel Branch

Big Glade Creek

Bledsoe Creek

Pine Swamp Creek

South Fork New River (not trout water)

Prather Creek

Cranberry Creek

Piney Fork

Meadow Fork

Yadkin River (not trout water)

Roaring River (not trout water)

East Prong Roaring River (that portion on Stone Mountain State Park) Delayed Harvest

- Waters regulations apply. See Subparagraph (5) of Paragraph (a) of this Rule.
- (B) Ashe County:
- New River (not trout waters)
 - North Fork New River (Watauga Co. line to Sharp Dam)
 - Helton Creek (Virginia State line to New River) [Delayed Harvest rules apply. See Subparagraph (5) of Paragraph (a) of this Rule.]
 - Big Horse Creek (SR 1361 bridge to Tuckerdale)
 - Buffalo Creek (headwaters to junction of NC 194-88 and SR 1131)
 - Big Laurel Creek
 - Three Top Creek (portion not on game lands)
 - Hoskins Fork (Watauga County line to North Fork New River)
 - South Fork New River (not trout waters)
 - Cranberry Creek (Alleghany County line to South Fork New River)
 - Nathans Creek
 - Peak Creek (headwaters to Trout Lake, except Blue Ridge Parkway waters)
 - Trout Lake (Delayed harvest regulations apply. See Subparagraph (5) of Paragraph (a) of this Rule.)
 - Roan Creek
 - North Beaver Creek
 - Pine Swamp Creek (all forks)
 - Old Fields Creek
 - Mill Creek (except where posted against trespass)
- (C) Avery County:
- Nolichucky River (not trout waters)
 - North Toe River (headwaters to Mitchell County line, except where posted against trespass)
 - Squirrel Creek
 - Elk River (SR 1306 crossing to Tennessee State line, including portions of tributaries on game lands)
 - Catawba River (not trout water)
 - Johns River (not trout water)
 - Wilson Creek [not Hatchery Supported trout water, see Subparagraph (2) of Paragraph (a) of this Rule]
 - Lost Cove Creek [not Hatchery Supported trout water, see Subparagraph (4) of Paragraph (a) of this Rule]
 - Buck Timber Creek [not Hatchery Supported trout water, see Subparagraph (2) of Paragraph (a) of this Rule]
 - Cary Flat Branch [not Hatchery Supported trout water, see Subparagraph (2) of Paragraph (a) of this Rule]
- Boyde Coffey Lake
- Archie Coffey Lake
- Linville River [Land Harbor line (below dam) to Blue Ridge Parkway boundary line, except where posted against trespass]
- Milltimber Creek
- (D) Buncombe County:
- French Broad River (not trout water)
 - Big Ivy Creek (Ivy River) (Dillingham Creek to US 19-23 bridge)
 - Dillingham Creek (Corner Rock Creek to Big Ivy Creek)
 - Stony Creek
 - Mineral Creek (including portions of tributaries on game lands)
 - Corner Rock Creek (including tributaries, except Walker Branch)
 - Reems Creek (Sugar Camp Fork to US 19-23 bridge, except where posted against trespass)
 - Swannanoa River (SR 2702 bridge near Ridgecrest to Sayles Bleachery in Asheville, except where posted against trespass)
 - Bent Creek (headwaters to N.C. Arboretum boundary line, including portions of tributaries on game lands)
 - Lake Powhatan
 - Cane Creek (headwaters to SR 3138 bridge)
- (E) Burke County:
- Catawba River (not trout water)
 - South Fork Catawba River (not trout water)
 - Henry Fork (lower South Mountains State Park line downstream to SR 1919 at Ivy Creek)
 - Jacob Fork (Shinny Creek to lower South Mountain State Park boundary)
 - Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.
 - Johns River (not trout water)
 - Parks Creek (portion not on game lands not trout water)
 - Carroll Creek (game lands portion above SR 1405 including tributaries)
 - Linville River (game lands portion below the Blue Ridge Parkway including portions of tributaries on game lands and from first bridge on SR 1223 below Lake James powerhouse to Muddy Creek)
- (F) Caldwell County:
- Catawba River (not trout water)
 - Johns River (not trout water)
 - Wilson Creek (Phillips Branch to Browns Mountain Beach dam, except where posted against trespass)
 - Estes Mill Creek (not trout water)
 - Thorps Creek (falls to NC 90 bridge)
 - Mulberry Creek (portion not on game lands not trout water)

- Boone Fork (not Hatchery Supported trout water. See Subparagraph (2) of Paragraph (a) of this Rule)
- Boone Fork Pond
- (G) Cherokee County:
- Hiwassee River (not trout water)
- Shuler Creek (headwaters to Tennessee line, except where posted against trespass including portions of tributaries on game lands)
- North Shoal Creek (Crane Creek) (headwaters to SR 1325, including portions of tributaries on game lands)
- Persimmon Creek
- Davis Creek (including portions of tributaries on game lands)
- Bald Creek (including portions of tributaries on game lands)
- Beaver Dam Creek (headwaters to SR 1326 bridge, including portions of tributaries on game lands)
- Valley River
- Hyatt Creek (including portions of tributaries on game lands)
- Webb Creek (including portions of tributaries on game lands)
- Junaluska Creek (Ashturn Creek to Valley River, including portions of tributaries on game lands)
- (H) Clay County:
- Hiwassee River (not trout water)
- Fires Creek (first bridge above the lower game land line on US Forest Service road 442 to SR 1300)
- Tusquitee Creek (headwaters to lower SR 1300 bridge, including portions of Bluff Branch on game lands)
- Tuni Creek (including portions of tributaries on game lands)
- Chatuge Lake (not trout water)
- Shooting Creek (SR 1349 bridge to US 64 bridge at SR 1338)
- Hothouse Branch (including portions of tributaries on gamelands)
- Vineyard Creek (including portions of tributaries on game lands)
- (I) Graham County:
- Little Tennessee River (not trout water)
- Calderwood Reservoir (Cheoah Dam to Tennessee State line)
- Cheoah River (not trout water)
- Yellow Creek
- Santeelah Reservoir (not trout water)
- West Buffalo Creek
- Huffman Creek (Little Buffalo Creek)
- Santeelah Creek (Johns Branch to mouth including portions of tributaries within this section located on game lands, excluding Johns Branch)
- Big Snowbird Creek (old railroad junction to mouth, including portions of tributaries on game lands)
- Mountain Creek (game lands boundary to SR 1138 bridge)
- Long Creek (portion not on game lands)
- Tulula Creek (headwaters to lower bridge on SR 1275)
- Franks Creek
- Cheoah Reservoir
- Fontana Reservoir (not trout water)
- Stecoah Creek
- Sawyer Creek
- Panther Creek (including portions of tributaries on game lands)
- (J) Haywood County:
- Pigeon River (not trout water)
- Hurricane Creek (including portions of tributaries on game lands)
- Cold Springs Creek (including portions of tributaries on game lands)
- Jonathans Creek - lower (concrete bridge in Dellwood to Pigeon River)
- Jonathans Creek - upper [SR 1302 bridge (west) to SR 1307 bridge]
- Hemphill Creek
- West Fork Pigeon River (triple arch bridge on highway NC 215 to Champion International property line, including portions of tributaries within this section located on game lands, except Middle Prong)
- Richland Creek (Russ Avenue bridge to US 19A-23 bridge) Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.
- (K) Henderson County:
- (Rocky) Broad River (one-half mile north of Bat Cave to Rutherford County line)
- Green River - upper (mouth of Bobs Creek to mouth of Rock Creek)
- Green River - lower (Lake Summit Dam to Polk County line)
- Camp Creek (SR 1919 to Polk County line)
- (Big) Hungry River
- Little Hungry River
- French Broad River (not trout water)
- Mills River (not trout water)
- North Fork Mills River (game lands portion below the Hendersonville watershed dam). Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.
- (L) Jackson County:

Tuckasegee River (confluence with West Fork Tuckasegee River to SR 1392 bridge at Wilmot) Delayed Harvest Regulations apply to that portion between NC 107 bridge at Love Field and NC 116 bridge at Webster. See Subparagraph (a)(5) of this Rule.
 Scott Creek (entire stream, except where posted against trespass)

Dark Ridge Creek (Jones Creek to Scotts Creek)

Buff Creek (SR 1457 bridge below Bill Johnson's place to Scott Creek)

Savannah Creek (Headwaters to Bradley's Packing House on NC 116)

Greens Creek (Greens Creek Baptist Church on SR 1730 to Savannah Creek)

Cullowhee Creek (Tilley Creek to Tuckasegee River)

Bear Creek Lake

Wolf Creek [not Hatchery Supported trout water, see Subparagraph (2) of Paragraph (a) of this Rule]

Wolf Creek Lake

Balsam Lake

Tanasee Creek [not Hatchery Supported trout water, see Subparagraph (2) of Paragraph (a) of this Rule]

Tanasee Creek Lake

West Fork Tuckasegee River (Shoal Creek to existing water level of Little Glenville Lake)

Shoal Creek (Glenville Reservoir pipeline to mouth)

(M) Macon County:

Little Tennessee River (not trout water)

Nantahala River (Nantahala Dam to Swain County line) Delayed Harvest Regulations apply to the portion from Whiteoak Creek to the Nantahala Power and Light powerhouse discharge canal. See Subparagraph (a)(5) of this Rule.

Queens Creek Lake

Burningtown Creek (including portions of tributaries on game lands)

Cullasaja River (Sequoah Dam to US 64 bridge near junction of SR 1672, including portions of tributaries on game lands, excluding those portions of Big Buck Creek and Turtle Pond Creek on game lands. Wild trout regulations apply. See Subparagraphs (2) and (6) of Paragraph (a) of this Rule.)

Ellijay Creek (except where posted against trespass, including portions of tributaries on game lands)

Skitty Creek

Cliffside Lake

Cartoogechaye Creek (US 64 bridge to Little Tennessee River)

Tessentee Creek (Nichols Branch to

Little Tennessee River, except where posted against trespassing)

Savannah River (not trout water)

Big Creek (base of falls to Georgia State line, including portions of tributaries within this Section located on game lands)

(N) Madison County:

French Broad River (not trout water)

Shut-In Creek (including portions of tributaries on game lands)

Spring Creek (junction of NC 209 and NC 63 to lower US Forest Service boundary line, including portions of tributaries on game lands)

Meadow Fork Creek

Roaring Fork (including portions of tributaries on game lands)

Little Creek

Max Patch Pond

Mill Ridge Pond

Big Laurel Creek (Mars Hill Watershed boundary to Rice's Mill Dam)

Shelton Laurel Creek (headwaters to NC 208 bridge)

Big Creek (headwaters to lower game land boundary, including tributaries)

Mill Creek

Big Pine Creek

Puncheon Fork (Hampton Creek to Big Laurel Creek)

(O) McDowell County:

Catawba River (portion not on game lands, not trout water)

Buck Creek (portion not on game lands, not trout water)

Little Buck Creek (game land portion including portions of tributaries on game lands)

Curtis Creek (Newberry Creek to US 70 bridge)

North Fork Catawba River (headwaters to SR 1569 bridge)

Armstrong Creek (Cato Holler line downstream to upper Greenlee line)

Mill Creek (upper railroad bridge to U.S. 70 Bridge, except where posted against trespass)

(P) Mitchell County:

Nolichucky River (not trout water)

Big Rock Creek (headwaters to NC 226 bridge at SR 1307 intersection)

Little Rock Creek (Green Creek Bridge to Big Rock Creek, except where posted against trespass)

Cane Creek (SR 1219 to Nolichucky River)

Grassy Creek (East Fork Grassy Creek to mouth)

- East Fork Grassy Creek
- North Toe River (Avery County line to SR 1121 bridge)
- (Q) Polk County:
 - Broad River (not trout water)
 - North Pacolet River (Pacolet Falls to NC 108 bridge)
 - Fork Creek (Fork Creek Church on SR 1100 to North Pacolet River)
 - Big Fall Creek (portion above and below water supply reservoir)
 - Green River (Henderson County line to mouth of Brights Creek)
 - Little Cove Creek (including portions of tributaries on game lands)
 - Cove Creek (including portions of tributaries on game lands)
 - Camp Creek [Henderson County line (top of falls) to Green River]
 - Fulloms Creek (SR 1154 to Green River, including portions of tributaries on game lands)
- (R) Rutherford County:
 - (Rocky) Broad River (Henderson County line to US 64 74 bridge, except where posted against trespass)
- (S) Stokes County:
 - Dan River (SR 1416 bridge downstream to a point 200 yards below the end of SR 1421)
- (T) Surry County:
 - Yadkin River (not trout water)
 - Ararat River (SR 1727 downstream to the Business US 52 bridge) Delayed Harvest regulations apply. See Subparagraph (5) of Paragraph (a) of this Rule.
 - Stewarts Creek (not trout water)
 - Pauls Creek (Virginia State line to 0.3 mile below SR 1625 bridge - lower Caudle property line)
 - Fisher River (Cooper Creek) (Virginia State line to NC 89 bridge)
 - Little Fisher River (Virginia State line to NC 89 bridge)
- (U) Swain County:
 - Little Tennessee River (not trout water)
 - Calderwood Reservoir (Cheoah Dam to Tennessee State line)
 - Cheoah Reservoir
 - Fontana Reservoir (not trout water)
 - Alarka Creek
 - Nantahala River (Macon County line to existing Fontana Reservoir water level)
 - Tuckasegee River (not trout water)
 - Deep Creek (Great Smoky Mountains National Park boundary line to Tuckasegee River)
 - Connelly Creek (including portions of tributaries on game lands)
- (V) Transylvania County:
 - French Broad River (junction of west and north forks to US 276 bridge)
 - Davidson River (Avery Creek to Ecusta intake)
 - East Fork French Broad River (Gladly Fork to French Broad River)
 - Middle Fork French Broad River
 - West Fork French Broad River (SR 1312 and SR 1309 intersection to junction of west and north forks, including portions of tributaries within this section located on game lands)
- (W) Watauga County:
 - New River (not trout waters)
 - North Fork New River (from confluence with Maine and Mine branches to Ashe County line)
 - Maine Branch (headwaters to North Fork New River)
 - South Fork New River (not trout water)
 - Meat Camp Creek
 - Norris Fork Creek
 - Howards Creek (downstream from lower falls)
 - Middle Fork New River (Lake Chetola Dam to South Fork New River)
 - Yadkin River (not trout water)
 - Stony Fork (headwaters to Wilkes County line)
 - Elk Creek (headwaters to gravel pit on SR 1508, except where posted against trespass)
 - Watauga River (SR 1559 at Foscoe downstream to NC 105 bridge) Delayed Harvest Regulations apply. See Subparagraph (5) of Paragraph (a) of this Rule.
 - Beech Creek
 - Buckeye Creek Reservoir
 - Coffee Lake
 - Laurel Creek
 - Cove Creek (SR 1233 bridge at Zionville to SR 1233 bridge at Amantha)
 - Dutch Creek (second bridge on SR 1134 to mouth)
 - Boone Fork (headwaters to SR 1562)
- (X) Wilkes County:
 - Yadkin River (not trout water)
 - Roaring River (not trout water)
 - East Prong Roaring River (Bullhead Creek to Brewer's Mill on SR 1943) (Delayed harvest regulations apply to portion on Stone Mountain State Park) See Subparagraph (5) of Paragraph (a) of this Rule.
 - Stone Mountain Creek (Delayed Harvest Regulations apply. See Subparagraph (5) of Paragraph (a) of this Rule.)

- Middle Prong Roaring River (headwaters to second bridge on SR 1736)
 - Bell Branch Pond
 - Boundary Line Pond
- West Prong Roaring River (not trout waters)
 - Pike Creek
 - Pike Creek Pond
- Reddies River (not trout water)
 - Middle Fork Reddies River (Clear Prong) (headwaters to bridge on SR 1580)
 - South Fork Reddies River (headwaters to confluence with Middle Fork Reddies River)
 - North Fork Reddies River (Vannoy Creek) (headwaters to Union School bridge on SR 1559)
 - Darnell Creek (North Prong Reddies River) (downstream ford on SR 1569 to confluence with North Fork Reddies River)
- Lewis Fork Creek (not trout water)
 - South Prong Lewis Fork (headwaters to Lewis Fork Baptist Church)
 - Fall Creek (except portions posted against trespass)
- (Y) Yancey County:
 - Nolichucky River (not trout water)
 - Cane River [Bee Branch (SR 1110) to Bowlens Creek]
 - Bald Mountain Creek (except portions posted against trespass)
 - Indian Creek (not trout water)
 - Price Creek (junction of SR 1120 and SR 1121 to Indian Creek)
 - North Toe River (not trout water)
 - South Toe River (Clear Creek to lower boundary line of Yancey County recreation park except where posted against trespass)
- (2) Wild Trout Waters. All waters designated as Public Mountain Trout Waters on the game lands listed in Subparagraph (b)(2) of 15A NCAC 10D .0004, are classified as Wild Trout Waters unless specifically classified otherwise in (A)(1) of this Rule. The trout waters listed in this Subparagraph are also classified as Wild Trout Waters.
 - (A) Alleghany County:
 - Big Sandy Creek (portion on Stone Mountain State Park)
 - Ramey Creek (entire stream)
 - Stone Mountain Creek (that portion on Stone Mountain State Park)
 - (B) Ashe County:
 - Big Horse Creek (Virginia State Line to SR 1361 bridge) Catch and Release Artificial Lures Only Regulations apply. See Subparagraph (a)(3) of this Rule.
 - (C) Avery County:
 - Birchfield Creek (entire stream)
 - Cow Camp Creek (entire stream)
 - Cranberry Creek (entire stream)
 - Gragg Pond (entire stream)
 - Horse Creek (entire stream)
 - Jones Creek (entire stream)
 - Kentucky Creek (entire stream)
 - North Harper Creek (entire stream)
 - Plumtree Creek (entire stream)
 - Roaring Creek (entire stream)
 - Rockhouse Creek (entire stream)
 - South Harper Creek (entire stream)
 - Webb Prong (entire stream)
 - Wilson Creek (Catch and Release/Artificial Lures Only Regulations apply. See Subparagraph (a)(3) of this Rule.)
 - (D) Buncombe County:
 - Carter Creek (game land portion) (Catch and Release/Artificial Lures only regulations apply. See Subparagraph (3) of Paragraph (a) of this Rule.)
 - (E) Burke County:
 - All waters located on South Mountain State Park, except the main stream of Jacob Fork between the mouth of Shinny Creek and the lower park boundary where delayed harvest regulations, and Henry Fork and tributaries where catch and release/artificial lures only regulations apply. See Subparagraphs (3) and (5) of Paragraph (a) of this Rule.
 - Nettle Branch (game land portion)
 - (F) Caldwell County:
 - Buffalo Creek (Watauga County line to Long Ridge Branch)
 - Joes Creek (Watauga County line to first falls upstream of the end of SR 1574)
 - Rockhouse Creek (entire stream)
 - (G) Graham County:
 - South Fork Squally Creek (entire stream)
 - Squally Creek (entire stream)
 - (H) Jackson County:
 - Gage Creek (entire stream)
 - North Fork Scott Creek (entire stream)
 - Tanasee Creek (entire stream)
 - Whitewater River (downstream from Silver Run Creek to South Carolina State line)
 - Wolf Creek (entire stream, except Balsam Lake and Wolf Creek Lake)
 - (I) Madison County:
 - Spillcorn Creek (entire stream) [Wild Trout/Natural Bait Waters regulations apply. See Subparagraph (6) of Paragraph (a) of this Rule.]
 - (J) Mitchell County:
 - Green Creek (headwaters to Green Creek Bridge, except where posted against trespass)
 - Little Rock Creek (headwaters to Green Creek Bridge, including all tributaries, except where posted against trespass)

- Wiles Creek (game land boundary to mouth)
- (K) Transylvania County:
Whitewater River (downstream from Silver Run Creek to South Carolina State line)
- (L) Watauga County:
Boone Fork (Blue Ridge Parkway boundary line to Watauga River) [Catch and Release Fly Fishing Only regulations apply. See Subparagraph (4) of Paragraph (a) of this Rule.]
Dutch Creek (headwaters to second bridge on SR 1134)
Howards Creek (headwaters to lower falls)
Watauga River (Avery County line to SR 1559)
- (M) Wilkes County:
Big Sandy Creek (portion on Stone Mountain State Park)
Garden Creek (portion on Stone Mountain State Park)
Harris Creek and tributaries [portions on Stone Mountain State Park] [Catch and Release Artificial Lures Only regulations apply. See Subparagraph (4) of Paragraph (a) of this Rule.]
Widow Creek (portion on Stone Mountain State Park)
- (N) Yancey County:
Lickskillet Creek (entire stream)
Middle Creek (game land boundary to mouth)
Rock Creek (game land boundary to mouth)
South Toe River (game land boundary downstream to Clear Creek)
- (3) Catch and Release Artificial Lures Only Trout Waters. Those portions of designated wild trout waters as listed in this Subparagraph, including tributaries except as noted, are further classified as Catch and Release Artificial Lures Only waters. Only artificial lures having one single hook may be used. No fish may be harvested or be in possession while fishing these streams:
- (A) Ashe County:
Big Horse Creek (Virginia State line to SR 1361 bridge excluding tributaries)
Three Top Creek (portion located on Three Top Mountain Game Lands)
- (B) Avery County:
Wilson Creek (game land portion)
- (C) Buncombe County:
Carter Creek (game land portion)
- (D) Burke County:
Henry Fork (portion on South Mountains State Park)
- (E) Jackson County:
Flat Creek
Tuckasegee River (upstream of Clarke property)
- (F) McDowell County:
Newberry Creek (game land portion)
- (G) Wilkes County:
Harris Creek (portion on Stone Mountain State Park)
- (H) Yancey County:
Lower Creek
Upper Creek
- (4) Catch and Release Artificial Flies Only Trout Waters. Those portions of designated wild trout waters as listed in this Subparagraph, including tributaries except as noted, are further classified as Catch and Release Fly Fishing Only waters. Only artificial flies having one single hook may be used. No fish may be harvested or be in possession while fishing these streams:
- (A) Avery County:
Lost Cove Creek (game land portion, excluding Gragg Prong and Rockhouse Creek)
- (B) Transylvania County:
Davidson River (headwaters to Avery Creek, excluding Avery Creek, Looking Glass Creek and Grogan Creek)
- (C) Watauga County:
Boone Fork (portion between Blue Ridge Parkway boundary and the Watauga River)
- (D) Yancey County:
South Toe River (portion from the concrete bridge above Black Mountain Campgroup downstream to game land boundary, excluding Camp Creek and Big Lost Cove Creek)
- (5) Delayed Harvest Trout Waters. Those portions of designated Hatchery Supported Trout Waters as listed in this Subparagraph, excluding tributaries except as noted, are further classified as Delayed Harvest Waters. Between 1 October and one-half hour after sunset on the Friday before the first Saturday of the following June, inclusive, it is unlawful to possess natural bait and only artificial lures with one single hook may be used. No fish may be harvested or be in possession while fishing these streams during this time. These waters are closed to fishing between one-half hour after sunset on the Friday before the first Saturday in June and 6:00 a.m. on the first Saturday in June. At 6:00 a.m. on the first Saturday in June these streams open for fishing under Hatchery Supported Waters rules:
- (A) Ashe County:
Trout Lake
Helton Creek (Virginia state line to New River)
- (B) Burke County:
Jacob Fork (Shinny Creek to lower South Mountains State Park boundary)
- (C) Haywood County:
Richland Creek (Russ Avenue bridge to US 19A-23 bridge)
- (D) Henderson County:
North Fork Mills River (game land portion below the Hendersonville watershed dam)
- (E) Jackson County:
Tuckasegee River (NC 107 bridge at Love Field

- Downstream to NC 116 bridge at Webster)
- (F) Macon County:
Nantahala River (portion from Whiteoak Creek to the Nantahala Power and Light power house discharge canal)
- (G) Surry County:
Ararat River (SR 1727 downstream to Business US 52 bridge)
- (H) Watauga County:
Watauga River (SR 1559 bridge at Foscoe downstream to NC 105 bridge)
- (I) Wilkes County:
East Prong Roaring River (from Bullhead Creek downstream to the Stone Mountain State Park lower boundary)
Stone Mountain Creek (from falls at Allegheny County line to confluence with East Prong Roaring River and Bullhead Creek in Stone Mountain State Park)
- (6) Wild Trout/Natural Bait Waters. Those portions of designated Wild Trout Waters as listed in this Subparagraph, including tributaries except as noted, are further classified as Wild Trout/Natural Bait Waters. All artificial lures and natural baits, except live fish, are allowed provided they are fished using only one single hook. The creel limit, size limit, and open season are the same as other Wild Trout Waters [see 15A NCAC 10C .0305(a)].
- (A) Cherokee County:
Tellico River (Fain Ford to Tennessee state line excluding tributaries)
- (B) Clay County:
Buck Creek (game land portion downstream of US 64 bridge)
- (C) Graham County:
Deep Creek
Long Creek (game land portion)
- (D) Jackson County:
Chattooga River (SR 1100 bridge to South Carolina state line)
(lower) Fowler Creek (game land portion)
Scotsman Creek (game land portion)
- (E) Macon County:
Chattooga River (SR 1100 bridge to South Carolina state line)
Jarrett Creek (game land portion)
Kimsey Creek
Overflow Creek (game land portion)
Park Creek
Tellico Creek (game land portion)
Turtle Pond Creek (game land portion)
- (F) Madison County:
Spillcorn Creek (entire stream, excluding tributaries)
- (G) Transylvania County:
North Fork French Broad River (game land portions downstream of SR 1326)
Thompson River (SR 1152 to South Carolina state line, except where posted against trespass, including portions of tributaries within this section located on game lands)
- (b) Fishing in Trout Waters
- (1) Hatchery Supported Trout Waters. It is unlawful to take fish of any kind by any manner whatsoever from designated public mountain trout waters during the closed seasons for trout fishing. The seasons, size limits, creel limits and possession limits apply in all waters, whether designated or not, as public mountain trout waters. Except in power reservoirs and city water supply reservoirs so designated, it is unlawful to fish in designated public mountain trout waters with more than one line. Night fishing is not allowed in most hatchery supported trout waters on game lands [see 15A NCAC 10D .0004(b)(1)].
- (2) Wild Trout Waters. Except as otherwise provided in Subparagraphs (3), (4), and (6) of Paragraph (a) of this Rule, the following rules apply to fishing in wild trout waters.
- (A) Open Season. There is a year round open season for the licensed taking of trout.
- (B) Creel Limit. The daily creel limit is four trout.
- (C) Size Limit. The minimum size limit is seven inches.
- (D) Manner of Taking. Only artificial lures having only one single hook may be used. No person shall possess natural bait while fishing wild trout waters except those waters listed in 15A NCAC 10C .0205(a)(6).
- (E) Night Fishing. Fishing on wild trout waters is not allowed between one-half hour after sunset and one-half hour before sunrise.

History Note: Authority G.S. 113-134; 113-272; 113-292; Eff. February 1, 1976;
Amended Eff. July 1, 1998; July 1, 1997; July 1, 1996; July 1, 1995; July 1, 1994; July 1, 1993; October 1, 1992.

SECTION .0400 - NONGAME FISH

.0401 MANNER OF TAKING NONGAME FISHES: PURCHASE AND SALE

(a) Except as permitted by the rules in this Section, it is unlawful to take nongame fishes from the inland fishing waters of North Carolina in any manner other than with hook and line or grabbling. Nongame fishes may be taken by hook and line or grabbling at any time without restriction as to size limits or creel limits, except that no trotlines or set-hooks may be used in the impounded waters located on the Sandhills Game Land or in designated public mountain trout waters, and in Lake Waccamaw, trotlines or set-hooks may be used only from October 1 through April 30. The season for taking nongame fishes by other hook and line methods in designated public mountain trout waters shall be the same as the trout fishing season.

(b) Nongame fishes, except bowfin, taken by hook and line, grabbling or by licensed special devices may be sold. Eels less than six inches in length taken from inland waters may not be sold and possession is limited to 200 per day for bait.

(c) Freshwater mussels may only be taken from impounded waters, except mussels shall not be taken in Lake Waccamaw and in University Lake in Orange County.

(d) In the posted Community Fishing Program waters listed below it is unlawful to take channel, white or blue catfish (forked tail catfish) by means other than hook and line; the daily creel limit for forked tail catfish is six fish in aggregate:

Cedarock Pond, Alamance County
 Frank Liske Park Pond, Cabarrus County
 Lake Rim, Cumberland County
 C.G. Hill Memorial Park Pond, Forsyth County
 Kernersville Lake, Forsyth County
 Winston Pond, Forsyth County
 Bur-Mil Park Ponds, Guilford County
 Oka T. Hester Pond, Guilford County
 San-Lee Park Ponds, Lee County
 Kinston Neuseway Park Pond, Lenoir County
 Freedom Park Pond, Mecklenburg County
 Hornet's Nest Pond, Mecklenburg County
 McAlpine Lake, Mecklenburg County
 Lake Luke Marion, Moore County
 River Park North Pond, Pitt County
 Big Elkin Creek, Surry County
 Apex Lake, Wake County
 Lake Crabtree, Wake County
 Shelley Lake, Wake County
 Simpkins Pond, Wake County
 Lake Toisnot, Wilson County

History Note: Temporary Amendment Eff. December 1, 1994;

Authority G.S. 113-134; 113-272; 113-292;

Eff. February 1, 1976;

Amended Eff. July 1, 1998; July 1, 1996; July 1, 1995; July 1, 1994; July 1, 1993; May 1, 1992.

SUBCHAPTER 10D - GAME LANDS REGULATIONS

.0002 GENERAL REGULATIONS REGARDING USE

(a) Trespass. Entry on game lands for purposes other than hunting, trapping or fishing shall be as authorized by the landowner and there shall be no removal of any plants or parts thereof, or other materials, without the written authorization of the landowner. Travel is restricted, except by authorized personnel, to direct access from SR 2074 to the established waterfowl viewing stands on Cowan's Ford Waterfowl Refuge. The Wildlife Resources Commission may designate areas on game lands as either an Archery Zone, Safety Zone or Restricted Zone.

(1) Archery Zone. On portions of game lands posted as "Archery Zones" hunting is limited to bow and arrow hunting only.

(2) Safety Zone. On portions of game lands posted as

"Safety Zones" hunting is prohibited. No person shall hunt or discharge a firearm or bow and arrow within, into, or across a posted safety zone on any game land.

(3) Restricted Zone. Portions of game lands posted as "Restricted Zones" are closed to all use by the general public, and entry upon such an area for any purpose is prohibited without first having obtained specific written approval of such entry or use from an authorized agent of the Wildlife Resources Commission.

(4) Establishment of Archery and Restricted Zones. The Commission shall conduct a public input meeting in the area where the game land is located before establishing any archery or restricted zone. After the input meeting the public comments shall be presented to an official Commission meeting for final determination.

(b) Littering. No person shall deposit any litter, trash, garbage, or other refuse at any place on any game land except in receptacles provided for disposal of such refuse at designated camping and target-shooting areas. No garbage dumps or sanitary landfills shall be established on any game land by any person, firm, corporation, county or municipality, except as permitted by the landowner.

(c) Possession of Hunting Devices. It is unlawful to possess a firearm or bow and arrow on a game land at any time except during the open hunting seasons or hunting days for game birds or game animals, other than fox, thereon unless said device is cased or not immediately available for use, provided that such devices may be possessed and used by persons participating in field trials on field trial areas and on target shooting areas designated by the landowner, and possessed in designated camping areas for defense of persons and property; and provided further that .22 caliber pistols with barrels not greater than seven and one-half inches in length and shooting only short, long, or long rifle ammunition may be carried as side arms on game lands at any time other than by hunters during the special bow and arrow and muzzle-loading firearms deer hunting seasons and by individuals training dogs during closed season without field trial authorization. This Rule shall not prevent possession or use of a bow and arrow as a licensed special fishing device in those waters where such use is authorized. During the closed firearms seasons on big game (deer, bear, boar, wild turkey), no person shall possess a shotgun shell containing larger than No. 4 shot or any rifle or pistol larger than a .22 caliber rimfire while on a game land, except that shotgun shells containing any size steel or non-toxic shot may be used while waterfowl hunting. Furthermore, only shotguns with any size shot may be possessed during the big game season for turkey. No person shall hunt with or have in possession any shotgun shell containing lead or toxic shot while hunting on any posted waterfowl impoundment on any game land, or while hunting waterfowl on Butler-Falls of Neuse Game Land or New Hope Game Land, except shotgun shells containing lead buckshot may be used while deer hunting.

(d) Game Lands License: Hunting and Trapping

- (1) Requirement. Except as provided in Subparagraph (2) of this Paragraph, any person entering upon any game land for the purpose of hunting, trapping, or participating in dog training or field trial activities shall have in his possession a game lands license in addition to the appropriate hunting or trapping licenses.

(2) Exceptions

- (A) A person under 16 years of age may hunt on game lands on the license of his parent or legal guardian.
- (B) The resident and nonresident sportsman's licenses include game lands use privileges.
- (C) Judges and nonresidents participating in field trials under the circumstances set forth in Paragraph (e) of this Rule may do so without the game lands license.
- (D) On the game lands described in Rule .0003(e)(2) of this Subchapter the game lands license is required only for hunting doves; all other activities are subject to the control of the landowners.

(e) Field Trials and Training Dogs. A person serving as judge of a field trial which, pursuant to a written request from the sponsoring organization, has been officially authorized in writing and scheduled for occurrence on a game land by an authorized representative of the Wildlife Resources Commission, and any nonresident participating therein may do so without procuring a game lands license, provided such nonresident has in his possession a valid hunting license issued by the state of his residence. Any individual or organization sponsoring a field trial on the Sandhills Field Trial grounds or the Laurinburg Fox Trial facility shall file with the commission's agent an application to use the area and facility accompanied by the facility use fee computed at the rate of one hundred dollars (\$100.00) for each scheduled day of the trial. The total facility use fee shall cover the period from 12:00 noon of the day preceding the first scheduled day of the trial to 10:00 a.m. of the day following the last scheduled day of the trial. The facility use fee shall be paid for all intermediate days on which for any reason trials are not run but the building or facilities are used or occupied. A fee of twenty-five dollars (\$25.00) per day shall be charged to sporting, educational, or scouting groups for scheduled events utilizing the club house only. No person or group of persons or any other entity shall enter or use in any manner any of the physical facilities located on the Laurinburg Fox Trial or the Sandhills Field Trial grounds without first having obtained specific written approval of such entry or use from an authorized agent of the Wildlife Resources Commission, and no such entry or use of any such facility shall exceed the scope of or continue beyond the specific approval so obtained. The Sandhills Field Trial facilities shall be used only for field trials scheduled with the approval of the Wildlife Resources Commission. No more than 16 days of field trials may be scheduled for occurrence on the Sandhills facilities during any calendar month, and no more than four days may be scheduled during any calendar week; provided, that a field trial requiring

more than four days may be scheduled during one week upon reduction of the maximum number of days allowable during some other week so that the monthly maximum of 16 days is not exceeded. Before October 1 of each year, the North Carolina Field Trial Association or other organization desiring use of the Sandhills facilities between October 22 and November 18 and between December 3 and March 31 shall submit its proposed schedule of such use to the Wildlife Resources Commission for its consideration and approval. The use of the Sandhills Field Trial facilities at any time by individuals for training dogs is prohibited; elsewhere on the Sandhills Game Lands dogs may be trained only on Mondays, Wednesdays and Saturdays from October 1 through April 1. Dogs may not be trained or permitted to run unleashed from April 1 through August 15 on any game land located west of I-95, except when participating in field trials sanctioned by the Wildlife Resources Commission. Additionally, on game lands located west of I-95 where special hunts are scheduled for sportsmen participating in the Disabled Sportsman Program, dogs may not be trained or allowed to run unleashed during legal big game hunting hours on the dates of the special hunts.

(f) Trapping. Subject to the restrictions contained in 15A NCAC 10B .0110, .0302 and .0303, trapping of furbearing animals is permitted on game lands during the applicable open seasons, except that trapping is prohibited:

- (1) on the field trial course of the Sandhills Game Land;
- (2) on the Harmon Den and Sherwood bear sanctuaries in Haywood County;
- (3) in posted "safety zones" located on any game land;
- (4) by the use of multiple sets (with anchors less than 15 feet apart) or bait on the National Forest Lands bounded by the Blue Ridge Parkway on the south, US 276 on the north and east, and NC 215 on the west;
- (5) on Cowan's Ford Waterfowl Refuge in Gaston, Lincoln and Mecklenburg Counties;
- (6) on the Hunting Creek Swamp Waterfowl Refuge;
- (7) on the John's River Waterfowl Refuge in Burke County;
- (8) on the Dupont State Forest Game Lands.

On those areas of state-owned land known collectively as the Roanoke River Wetlands controlled trapping is allowed under a permit system.

(g) Use of Weapons. No person shall hunt or discharge a firearm or bow and arrow from a vehicle, or within 200 yards of any building or designated camping area, or within, into, or across a posted "safety zone" on any game land. No person shall hunt with or discharge a firearm within, into, or across a posted "restricted zone" on any game land.

(h) Vehicular Traffic. No person shall drive a motorized vehicle on any game land except on those roads constructed, maintained and opened for vehicular travel and those trails posted for vehicular travel, unless such person:

- (1) is a participant in scheduled bird dog field trials held on the Sandhills Game Land; or
- (2) holds a Disabled Access Program Permit as described in (n) below and is abiding by the rules

described in that paragraph.

(i) Camping. No person shall camp on any game land except on an area designated by the landowner for camping. Camping and associated equipment in designated Hunter Camping Areas at Butner-Falls of the Neuse, Caswell, and Sandhills Game Lands is limited to Sept. 1- Feb. 29 and Apr. 7 - May 14.

(j) Swimming. Swimming is prohibited in the lakes located on the Sandhills Game Land.

(k) Disabled Sportsman Program. In order to qualify for special hunts for disabled sportsmen listed in 15A NCAC 10D .0003 an individual shall have in their possession a Disabled Sportsman permit issued by the Commission. In order to qualify for the permit, the applicant shall provide medical certification of one or more of the following disabilities:

- (1) amputation of one or more limbs;
- (2) paralysis of one or more limbs;
- (3) dysfunction of one or more limbs rendering the person unable to perform the task of grasping and lifting with the hands and arms or unable to walk without mechanical assistance, other than a cane;
- (4) disease or injury or defect confining the person to a wheelchair, walker, or crutches; or
- (5) legal deafness, meaning the inability to hear or understand oral communications with or without assistance of amplification devices.

Participants in the program, except those qualifying by deafness, may operate vehicles on ungated or open-gated roads normally closed to vehicular traffic on Game Lands owned by the Wildlife Resources Commission. Each program participant may be accompanied by one able-bodied companion provided such companion has in his possession the companion permit issued with the Disabled Sportsman permit.

(l) Release of Animals and Fish. It is unlawful to release pen-raised animals or birds, wild animals or birds, or hatchery-raised fish on game lands without prior written authorization. Also, it is unlawful to move wild fish from one stream to another on game lands without prior written authorization.

(m) Non-Highway Licensed Vehicles. It is unlawful to operate motorized vehicles not licensed for highway use from May 15 through August 31 on all state-owned Game Lands. Such vehicles may be operated September 1 through May 14 only on those roads constructed, maintained, and open for vehicular travel and those trails posted for vehicular use. All operators of such vehicles shall have, in their possession, a valid Game Lands Use license.

(n) Disabled Access Program. Permits issued under this program shall be based upon competent medical evidence submitted by the person verifying that a handicap exists that limits physical mobility to the extent that normal utilization of the game lands is not possible without vehicular assistance. Persons meeting this requirement may operate electric wheel chairs, all terrain vehicles, and other passenger vehicles on ungated or open-gated roads otherwise closed to vehicular traffic on game lands owned by the Wildlife Resources Commission and on game lands whose owners have agreed to such use. Those game lands where this special rule applies shall be designated in the game land rules and map book. This

special access rule for disabled sportsmen does not permit vehicular access on fields, openings, roads, paths, or trails planted to wildlife food or cover. One able-bodied companion, who is identified by a special card issued to each qualified disabled person, may accompany a disabled person to provide assistance, provided the companion is at all times in visual or verbal contact with the disabled person. The companion may participate in all lawful activities while assisting a disabled person, provided license requirements are met. Any vehicle used by a qualified disabled person for access to game lands under this provision shall prominently display the vehicular access permit issued by the Wildlife Resources Commission in the passenger area of the vehicle. It shall be unlawful for anyone other than those holding a Disabled Access Permit to hunt, during waterfowl season, within 100 yards of a waterfowl blind designated by the Wildlife Resources Commission as a Disabled Sportsman's hunting blind.

History Note: Temporary Amendment Eff. October 11, 1993;

Authority G.S. 113-134; 113-264; 113-270.3; 113-291.2; 113-291.5; 113-305; 113-306;

Eff. February 1, 1976;

Amended Eff. July 1, 1998; July 1, 1996; July 1, 1995; July 1, 1994; July 1, 1993; April 1, 1992.

.0003 HUNTING ON GAME LANDS

(a) Safety Requirements. No person while hunting on any designated game land shall be under the influence of alcohol or any narcotic drug, or fail to comply with special restrictions enacted by the National Park Service regarding the use of the Blue Ridge Parkway where it adjoins game lands listed in this Rule.

(b) Traffic Requirements. No person shall park a vehicle on game lands in such a manner as to block traffic, gates or otherwise prevent vehicles from using any roadway.

(c) Tree Stands. It is unlawful to erect or to occupy, for the purpose of hunting, any tree stand or platform attached by nails, screws, bolts or wire to a tree on any game land designated herein. This prohibition shall not apply to lag-screw steps or portable stands that are removed after use with no metal left remaining in or attached to the tree.

(d) Time and Manner of Taking. Except where closed to hunting or limited to specific dates by this Chapter, hunting on game lands is permitted during the open season for the game or furbearing species being hunted. On managed waterfowl impoundments, hunters shall not enter the posted impoundment areas earlier than 4:00 a.m. on the permitted hunting dates, and hunting is prohibited after 1:00 p.m. on such hunting dates; decoys shall not be set out prior to 4:00 a.m. and must be removed by 3:00 p.m. each day. No person shall operate any vessel or vehicle powered by an internal combustion engine on a managed waterfowl impoundment. No person shall attempt to obscure the sex or age of any bird or animal taken by severing the head or any other part thereof, or possess any bird or animal which has been so mutilated. No person shall place, or cause to be placed on any game land,

salt, grain, fruit, or other foods without prior written authorization of the commission or its agent. A decision to grant or deny authorization shall be made based on the best management practices for the wildlife species in question. No person shall take or attempt to take any game birds or game animals attracted to such foods. No live wild animals or wild birds shall be removed from any game land.

(e) Definitions:

- (1) For purposes of this Section "Eastern" season refers to seasons set for those counties or parts of counties listed in 15A NCAC 10B .0203(b)(1)(A); "Central" season refers to seasons set for those counties or parts of counties listed in 15A NCAC 10B .0203(b)(1)(D); "Northwestern" season refers to seasons set for those counties or parts of counties listed in 15A NCAC 10B .0203(b)(1)(B); "Western" season refers to seasons set for those counties or parts of counties listed in 15A NCAC 10B .0203(b)(1)(C).
- (2) For purposes of this Section, "Dove Only Area" refers to a Game Land on which doves may be taken and dove hunting is limited to Mondays, Wednesdays, Saturdays and to Thanksgiving, Christmas and New Year's Days within the federally-announced season.
- (3) For purposes of this Section, "Three Days per Week Area" refers to a Game Land on which any game may be taken during the open seasons and hunting is limited to Mondays, Wednesdays, Saturdays and Thanksgiving, Christmas and New Year's Days. These "open days" also apply to either-sex hunting seasons listed under each game land. Raccoon and opossum hunting may continue until 7:00 a.m. on Tuesdays, until 7:00 a.m. on Thursdays, and until midnight on Saturdays.
- (4) For purposes of this Section, "Six Days per Week Area" refers to a Game Land on which any game may be taken during the open seasons, except that:
 - (A) Bears shall not be taken on lands designated and posted as bear sanctuaries;
 - (B) Wild boar shall not be taken with the use of dogs on such bear sanctuaries, and wild boar may be hunted only during the bow and arrow seasons, the muzzle-loading deer season and the regular gun season on male deer on bear sanctuaries;
 - (C) On game lands open to deer hunting located in or west of the counties of Rockingham, Guilford, Randolph, Montgomery and Anson, the following rules apply to the use of dogs during the regular season for hunting deer with guns:
 - (i) Except for the counties of Cherokee, Clay, Graham, Jackson, Macon, Madison, Polk, and Swain, game birds may be hunted with dogs.
 - (ii) In the counties of Cherokee, Clay, Graham, Jackson, Macon, Madison,

Polk, and Swain, small game in season may be hunted with dogs on all game lands except on bear sanctuaries.

- (D) On bear sanctuaries in and west of Madison, Buncombe, Henderson and Polk counties dogs shall not be trained or allowed to run unleashed between March 1 and the Monday on or nearest October 15;

(f) Game Lands Seasons and Other Restrictions:

- (1) Alcoa Game Land in Davidson, Davie, Montgomery, Rowan and Stanly counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (2) Angola Bay Game Land in Duplin and Pender counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (3) Anson Game Land in Anson County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (4) Bachlelor Bay Game Land in Bertie and Washington counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (5) Bertie County Game Land in Bertie County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (6) Bladen County Game Land in Bladen County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (C) A special permit is required for hunting on the Suggs Mill Pond portion of the Bladen County Game Lands.
- (7) Bladen Lakes State Forest Game Land in Bladen County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season. Deer of either sex may also be taken the Saturday preceding Eastern bow season with bow and arrow and the Friday

- preceding the Eastern muzzle-loading season with any legal weapon (with weapons exceptions described in this Paragraph) by participants in the Disabled Sportsman Program.
- (C) Handguns shall not be carried and, except for muzzle-loaders, rifles larger than .22 caliber rimfire shall not be used or possessed.
 - (D) On the Breece Tract and the Singletary Tract deer and bear may be taken only by still hunting.
 - (E) Wild turkey hunting is by permit only.
- (8) Brushy Mountains Game Land in Caldwell County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
 - (9) Bullard and Branch Hunting Preserve Game Lands in Robeson County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
 - (10) Butner - Falls of Neuse Game Land in Durham, Granville and Wake counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
 - (C) Waterfowl may be taken only on Tuesdays, Thursdays and Saturdays, Christmas and New Year's Days, and on the opening and closing days of the applicable waterfowl seasons. Waterfowl shall not be taken after 1:00 p.m. On the posted waterfowl impoundments a special permit is required for all waterfowl hunting after November 1.
 - (D) Horseback riding, including all equine species, is prohibited.
 - (E) Target shooting is prohibited
 - (F) Wild turkey hunting is by permit only.
 - (11) Cape Fear Game Land in Pender County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Turkey Hunting is by permit only on that portion known as the Roan Island Tract.
 - (12) Caswell Game Land in Caswell County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season. Deer of either sex may also be taken the Friday preceding the Central muzzle-loading season by participants in the Disabled Sportsman Program.
 - (C) Horseback riding is allowed only during June, July, and August and on Sundays during the remainder of the year except during open turkey and deer seasons. Horseback riding is allowed only on roads opened to vehicular traffic. Participants must obtain a game lands license prior to engaging in such activity.
 - (13) Caswell Farm Game Land in Lenoir County
 - (A) Dove-Only Area
 - (14) Catawba Game Land in Catawba and Iredell counties
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.
 - (C) Deer may be taken with bow and arrow only from the tract known as Molly's Backbone.
 - (15) Chatham Game Land in Chatham County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
 - (16) Cherokee Game Land in Ashe County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
 - (17) Cherry Farm Game Land in Wayne County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
 - (C) The use of centerfire rifles and handguns is prohibited.
 - (18) Chowan Game Land in Chowan County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days, open days the week of Thanksgiving, and the last six open days of the applicable Deer With Visible Antlers Season.
 - (19) Chowan Swamp Game Land in Gates County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (20) Columbus County Game Land in Columbus County.
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken all open days of the applicable Deer With Visible Antlers Season.
 - (21) Croatan Game Land in Carteret, Craven and Jones counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the

- applicable Deer With Visible Antlers Season.
- (C) Waterfowl may be taken only on Mondays, Wednesdays, Saturdays; on Thanksgiving, Christmas and New Year's Days; and on the opening and closing days of the applicable waterfowl seasons.
- (22) Dare Game Land in Dare County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
- (C) No hunting on posted parts of bombing range.
- (D) The use and training of dogs is prohibited from March 1 through June 30.
- (23) Dupont State Forest Game Lands in Henderson and Transylvania counties
- (A) Hunting is by Permit only.
- (B) The training and use of dogs for hunting except during scheduled small game permit hunts for squirrel, grouse, rabbit, or quail is prohibited.
- (24) Dysartsville Game Land in McDowell and Rutherford counties
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
- (25) Elk Knob Game Land in Ashe and Watauga counties
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
- (26) Gardner-Webb Game Land in Cleveland County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
- (27) Goose Creek Game Land in Beaufort and Pamlico counties
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (C) On posted waterfowl impoundments waterfowl may be taken only on Mondays, Wednesdays, Saturdays; on Thanksgiving, Christmas and New Year's Days; and on the opening and closing days of the applicable waterfowl seasons. After November 1, on the Pamlico Point, Campbell Creek, Hunting Creek and Spring Creek impoundments, a special permit is required for hunting on opening and closing days of the duck seasons, Saturdays of the duck seasons, and on Thanksgiving and New Year's day.
- (28) Green River Game Land in Henderson, Polk and Rutherford counties
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season in that portion in Rutherford County; and deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season in that portion in Polk and Henderson counties.
- (29) Green Swamp Game Land in Brunswick County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (30) Gull Rock Game Land in Hyde County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (C) On the posted waterfowl impoundments of Gull Rock Game Land hunting of any species of wildlife is limited to Mondays, Wednesdays, Saturdays; Thanksgiving, Christmas, and New Year's Days; and the opening and closing days of the applicable waterfowl seasons.
- (31) Hickorynut Mountain Game Land in McDowell County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
- (32) Hofmann Forest Game Land in Jones and Onslow counties
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (33) Holly Shelter Game Land in Pender County
- (A) Three Days per Week Area
- (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season. Deer of either sex may also be taken the Friday preceding the Eastern muzzle-loading season with any legal weapon and the Saturday preceding Eastern bow season with bow and arrow by participants in the Disabled Sportsman Program
- (C) Waterfowl may be taken on the opening and closing days of the applicable waterfowl seasons regardless of the day of the week on which they occur.

- (34) Huntsville Community Farms Game Land in Yadkin County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.
- (35) Hyco Game land in Person County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (36) Jordan Game Land in Chatham, Durham, Orange and Wake counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
 - (C) Waterfowl may be taken only on Mondays, Wednesdays, Saturdays; on Thanksgiving, Christmas and New Year's Days; and on the opening and closing days of the applicable waterfowl seasons.
 - (D) Horseback riding, including all equine species, is prohibited.
 - (E) Target shooting is prohibited.
 - (F) Wild turkey hunting is by permit only.
- (37) Lantern Acres Game Land in Tyrrell and Washington counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days, open days the week of Thanksgiving, and the last six open days of the applicable Deer With Visible Antlers Season.
- (38) Lee Game Land in Lee County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (39) Linwood Game Land in Davidson County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (40) Moore Game Land in Moore County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (41) Nantahala Game Land in Cherokee, Clay, Graham, Jackson, Macon, Swain and Transylvania counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season in that portion located in Transylvania County.
- (C) Raccoon and opossum may be hunted only from sunset Friday until sunrise on Saturday and from sunset until 12:00 midnight on Saturday on Fires Creek Bear Sanctuary in Clay County and in that part of Cherokee County north of US 64 and NC 294, east of Persimmon Creek and Hiwassee Lake, south of Hiwassee Lake and west of Nottely River; in the same part of Cherokee County dog training is prohibited from March 1 to the Monday on or nearest October 15.
- (D) It is unlawful to train dogs or allow dogs to run unleashed on any game land in Graham County between March 1 and the Monday on or nearest October 15.
- (42) Neuse River Game Land in Craven County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (43) New Lake Game Land in Hyde County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (44) North River Game Land in Currituck County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days, open days the week of Thanksgiving, and the last six open days of the applicable Deer With Visible Antlers Season.
- (45) Northwest River Marsh Game Land in Currituck County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days, open days the week of Thanksgiving, and the last six open days of the applicable Deer With Visible Antlers Season.
- (46) Pee Dee River Game Land in Anson, Montgomery, Richmond and Stanly counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
 - (C) Use of centerfire rifles prohibited in that portion in Anson and Richmond counties North of US-74.
- (47) Perkins Game Land in Davie County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the last open

- day of the applicable Deer With Visible Antlers Season.
- (48) Person Game Land in Person County
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
 - (C) Waterfowl may be taken only on Tuesdays, Thursdays and Saturdays, Christmas and New Year's Days, and on the opening and closing days of the applicable waterfowl seasons.
- (49) Pisgah Game Land in Avery, Buncombe, Burke, Caldwell, Haywood, Henderson, Madison, McDowell, Mitchell, Transylvania, Watauga and Yancey counties
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season except on that portion of Avery County north of the Blue Ridge Parkway and that portion in Haywood County encompassed by US 276 on the north, US 74 on the west, and the Blue Ridge Parkway on the south and east.
 - (C) Harmon Den and Sherwood Bear Sanctuaries in Haywood County are closed to hunting raccoon, opossum and wildcat. Training raccoon and opossum dogs is prohibited from March 1 to the Monday on or nearest October 15 in that part of Madison County north of the French Broad River, south of US 25-70 and west of SR 1319.
- (50) Pungo River Game Land in Hyde County
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (51) Roanoke River Wetlands in Bertie, Halifax and Martin counties
- (A) Hunting is by Permit only. Vehicles are prohibited on roads or trails except those operated on official Commission business or by permit holders.
- (52) Robeson Game Land in Robeson County
- (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
- (53) Sampson Game Land in Sampson County
- (A) Three Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (54) Sandhills Game Land in Moore, Richmond and Scotland counties
- (A) Three Days per Week Area
 - (B) The Deer With Visible Antlers season for deer consists of the open hunting dates from the second Monday before Thanksgiving through the third Saturday after Thanksgiving except on the field trial grounds where the gun season is from the second Monday before Thanksgiving through the Saturday following Thanksgiving. Deer may be taken with bow and arrow on all open hunting dates during the bow and arrow season, as well as during the regular gun season. Deer may be taken with muzzle-loading firearms on Monday, Wednesday and Saturday of the second week before Thanksgiving week, and during the Deer With Visible Antlers season.
 - (C) Gun either-sex deer hunting is by permit only the Thursday and Friday before Thanksgiving Week. For participants in the Disabled Sportsman Program, either-sex deer hunting with any legal weapon is permitted on all areas the Thursday and Friday prior to the muzzle-loading season described in the preceding paragraph. Except for the deer seasons indicated in the preceding paragraph and the managed either-sex permit hunts, the field trial grounds are closed to all hunting during the period October 22 to March 31.
 - (D) In addition to the regular hunting days, waterfowl may be taken on the opening and closing days of the applicable waterfowl seasons
 - (E) Wild turkey hunting is by permit only.
 - (F) Dove hunting on the field trial grounds will be prohibited from the second Sunday in September through the remainder of the hunting season.
- (55) Sauratown Plantation Game Land in Stokes County
- (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.
- (56) Shearon Harris Game Land in Chatham and Wake counties
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
 - (C) Waterfowl may be taken only on Tuesdays, Fridays, Saturdays, on Thanksgiving, Christmas and New Year's Days, and on the opening and closing days of the applicable waterfowl seasons.
- (57) South Mountains Game Land in Burke, Cleveland, McDowell and Rutherford counties
- (A) Six Days per Week Area

- (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
 - (58) Sutton Lake Game Land in New Hanover County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
 - (59) Three Top Mountain Game Land in Ashe County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
 - (60) Thurmond Chatham Game Land in Wilkes County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season. Participants of the Disabled Sportsman Program may also take either-sex deer with bow and arrow on the Saturday prior to Northwestern bow and arrow season.
 - (C) Horseback riding is only allowed during June, July, and August and on Sundays during the remainder of the year except during open turkey and deer seasons. Horseback riding is allowed only on roads opened to vehicular traffic. Participants must obtain a game lands license prior to horseback riding on this area.
 - (61) Toxaway Game Land in Transylvania County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season. Participants of the Disabled Sportsman Program Deer may also take deer of either sex with any legal weapon on the Saturday prior to the first segment of the Western bow and arrow season.
 - (62) Uwharrie Game Land in Davidson, Montgomery and Randolph counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last open six days of the applicable Deer With Visible Antlers Season.
 - (63) Vance Game Land in Vance County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) The use of dogs, centerfire rifles and handguns for hunting deer is prohibited on the Nutbush Peninsula tract.
 - (64) White Oak River Impoundment Game Land in Onslow County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Waterfowl may be taken on the opening and closing days of the applicable waterfowl seasons regardless of the day of the week on which they occur.
 - (65) Yadkin Game Land in Caldwell County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
- (g) On permitted type hunts deer of either sex may be taken on the hunt dates indicated on the permit. Completed applications must be received by the Commission not later than the first day of September next preceding the dates of hunt. Permits shall be issued by random computer selection, shall be mailed to the permittees prior to the hunt, and shall be nontransferable. A hunter making a kill must tag the deer and report the kill to a wildlife cooperator agent or by phone.
- (h) The following game lands and refuges shall be closed to all hunting except to those individuals who have obtained a valid and current permit from the Wildlife Resources Commission:
- Bertie, Halifax and Martin counties--Roanoke River Wetlands;
 - Bertie County--Roanoke River National Wildlife Refuge.
 - Burke County--John's River Waterfowl Refuge
 - Dare County--Dare Game Lands (Those parts of bombing range posted against hunting)
 - Davie--Hunting Creek Swamp Waterfowl Refuge
 - Gaston, Lincoln and Mecklenburg counties--Cowan's Ford Waterfowl Refuge.
 - Henderson and Transylvania counties--Dupont State Forest Game Lands
- History Note: Temporary Amendment Eff. October 3, 1991; Authority G.S. 113-134; 113-264; 113-291.2; 113-291.5; 113-305; Eff. February 1, 1976; Amended Eff. July 1, 1998; July 1, 1997; July 1, 1996; September 1, 1995; July 1, 1995; September 1, 1994; July 1, 1994.*

.0004 FISHING ON GAME LANDS

- (a) Generally. Except as otherwise indicated herein, fishing on game lands which are open to fishing shall be in accordance with the statewide rules. All game lands are open to public fishing except restocked ponds when posted against fishing, Hunting Creek Swamp Waterfowl Refuge, Grogan Creek in Transylvania County, and in the case of private ponds where fishing may be prohibited by the owners thereof. No trotline or set-hook or any net, trap, gig, bow and arrow or other special fishing device of a type mentioned in 15A NCAC 10C .0403 may be used in any of the impounded waters located on the Sandhills Game Land.
- (b) Designated Public Mountain Trout Waters
 - (1) Fishing Hours. It is unlawful to fish in designated public mountain trout waters on any game land

from one-half hour after sunset to one-half hour before sunrise, except in Hatchery Supported Trout waters as stated in 15A NCAC 10C .0305(a), Delayed Harvest waters as stated in 15A NCAC 10C .0205(a)(5), game lands sections of the Nantahala River located downstream from the Swain County line, and in the sections of Green River in Polk County located on Green River Game Lands from Fish Stop Falls Access Area downstream to Brights Creek.

- (2) Location. All waters located on the game lands listed in this Subparagraph are designated public mountain trout waters except Cherokee Lake, Grogan Creek, and Big Laurel Creek downstream from the US 25-70 bridge to the French Broad River, Pigeon River downstream of Waterville Reservoir to Tennessee line, Nolichucky River, and Mill Ridge Pond and Cheoah River downstream of Santeetlah Reservoir.

Dupont State Forest Game Lands in Henderson and Transylvania counties
Three Top Mountain Game Land, Ashe County

Nantahala National Forest Game Lands in the Counties of Cherokee, Clay, Graham, Jackson, Macon, Swain and Transylvania
Pisgah National Forest Game Lands in the Counties of Avery, Buncombe, Burke, Caldwell, Haywood, Henderson, Madison, McDowell, Mitchell, Transylvania and Yancey

Thurmond Chatham Game Land in Wilkes County

Toxaway Game Land in Transylvania County

- (3) All designated public mountain trout waters located on the game lands listed in Subparagraph (b)(2) of this Rule are wild trout waters unless classified otherwise. [See 15A NCAC 10C .0205(a)(1)].

(c) Ponds. In all game lands ponds, it is unlawful to take channel, white or blue catfish (forked tail catfish) by means other than hook and line and the daily creel limit for forked tail catfish is six fish in aggregate.

History Note: Authority G.S. 113-134; 113-264; 113-272; 113-292; 113-305;

Eff. February 1, 1976;

Amended Eff. July 1, 1998; July 1, 1996; July 1, 1995; July 1, 1994; July 1, 1993; July 1, 1992.

SUBCHAPTER 10F - MOTORBOATS AND WATER SAFETY

SECTION .0100 - MOTORBOAT REGISTRATION

.0102 APPLICATION FOR CERTIFICATE OF VESSEL NUMBER

(a) General: Every owner of a vessel required to be numbered pursuant to G.S. 75A-4 and 75A-7 shall apply to the Vessel Registration and Title Section of the North

Carolina Wildlife Resources Commission or to one of its authorized agents for a certificate of vessel number using an approved application.

(b) Individual Owners of Vessels. The application shall contain the following information:

- (1) name of owner(s);
- (2) address of owner, including zip code;
- (3) state of principal use of vessel;
- (4) present or previous vessel registration number (if any);
- (5) desired period of registration (one or three years);
- (6) use of vessel (pleasure, livery, demonstration, commercial passenger, commercial fishing, other commercial);
- (7) make of vessel (if known);
- (8) year of manufacture or model year (if known);
- (9) manufacturer's hull identification number (if any);
- (10) overall length of vessel;
- (11) type of vessel (open, cabin, houseboat, personal watercraft, pontoon, other);
- (12) hull material (wood, metal, fiberglass, inflatable, plastic, other);
- (13) type of propulsion (inboard; outboard; inboard-outdrive; jet drive; sail; auxiliary sail/inboard; auxiliary sail/outboard);
- (14) type of fuel (gasoline, diesel, electric, other);
- (15) proof of ownership document;
- (16) signature of owner(s).

(c) Livery Vessel Owners. A "livery" vessel is one that is rented or leased to an individual for a specific time period by the owner. The registration and numbering requirements of G.S. 75A-4 and 75A-7 shall apply to livery vessels. In any case where the motor is not rented with the vessel, the description of the motor and type of fuel may be omitted from the application. The standard application form for vessel registration shall be used for livery vessels with the term "livery" marked in the section designated for "use of vessel."

(d) Dealers and Manufacturers of Vessels. A "manufacturer" as the term is used in this Rule is defined as a person, firm, or corporation engaged in the business of manufacturing vessels either upon prior commission or for the purpose of selling them after manufacture. A "dealer" as the term is used in this Rule is defined as a person, firm, or corporation engaged in the business of offering vessels for sale at retail or wholesale from an established location(s). The registration and numbering requirements of G.S. 75A-4 and 75A-7 shall apply to vessels belonging to dealers and manufacturers. The standard application for a certificate of vessel number shall be used for dealer and manufacturer certificates with the term "demonstration" marked in the section designated for "use of vessel." Upon receipt of a properly completed application and fee for dealer or manufacturer vessel registration, the Wildlife Resources Commission shall issue to the applicant a dealer's or manufacturer's certificate of vessel number, as appropriate, which may be used in connection with the operation of any vessel in the possession of the dealer or manufacturer when the vessel is being demonstrated. Additional dealer's or

manufacturer's certificates of vessel number may be obtained by making application in the same manner as prescribed for the initial certificate with payment of an additional fee for each additional certificate. Dealers and manufacturers have the option of registering individual vessels in accordance with Rule .0104(a) of this Section.

History Note: Legislative Objection Lodged Eff. December 16, 1980;

Authority: G.S. 75A-3; 75A-5; 75A-7; 75A-19; 33 C.F.R. 174.17;

Eff. February 1, 1976;

Amended Eff. July 1, 1988 at ARRC request to cure referenced Legislative Objection;

Amended Eff. July 1, 1998; April 1, 1997; November 1, 1993; August 1, 1988; July 1, 1988; August 31, 1980.

.0103 TRANSFER OF OWNERSHIP

(a) Transfer of titled vessels.

(1) When the ownership of a titled vessel is transferred, the current owner(s) as recorded on the face of the Certificate of Title for Watercraft shall complete the Assignment of Title section on the reverse side of the certificate of title and transmit the title to the new owner(s). If the certificate of title contains any encumbrances, security interests, or liens on its face, the Release of First Lien section on the face of the certificate of title must be completed by the lienholder(s) before the title is transmitted to the new owner(s). If more than one lien is outstanding on the title, all liens must be satisfied as evidenced by attaching additional Release of Lien statements completed in the same fashion as the Release of First Lien section before the certificate of title is transmitted to the new owner(s).

(2) The new owner(s) must complete and submit an Application for Title and Registration along with the properly assigned certificate of title and applicable registration and title fees to the Vessel Registration and Title Section of the Wildlife Resources Commission for processing. The new owner(s) shall indicate on the application whether or not the vessel will be titled under the new ownership; and, if so, whether or not any liens exist on the vessel. If the new owner(s) elects to transfer the title, then a new Certificate of Title for Watercraft shall be issued, including recordation of any new liens that are listed on the application.

(b) Transfer of non-titled vessels.

(1) Direct transfer from one individual owner to another.

(A) If the ownership of a once-registered vessel is transferred, the previous owner shall complete the statement of transfer provided with the certificate of vessel number, date it as of the day of the transaction, sign it, and deliver it to the new owner.

(B) The new owner shall complete the transfer of

vessel ownership by preparing and submitting an official application form for this purpose within 10 days from the date of transfer. The original vessel registration number must be retained when a vessel most recently registered in North Carolina is registered to a new owner. A new vessel registration number shall be issued to vessels most recently registered in another State or never before registered.

(C) For 60 days following the transfer of ownership of a once-registered vessel, the new owner may use the certificate of vessel number of the prior owner as a temporary certificate of number pending receipt of his own certificate provided the certificate is validated in accordance with Part (b)(1)(A) of this Rule.

(D) An individual may also transfer ownership of a vessel by preparing a Bill of Sale naming the new owner, provided both parties to the sale sign the Bill of Sale before a notary public. If a Bill of Sale is the instrument of transfer, the new owner may use a copy of it as a temporary certificate of vessel number for a period of 60 days. The notarized Bill of Sale must accompany the application for transfer of ownership and the application must be mailed within 10 days of the date of sale.

(2) Transfer of a once-registered vessel through a dealer.

(A) An owner selling or transferring a once-registered vessel to a dealer shall, on the day of the transaction, give the certificate of vessel number to the dealer after dating and signing the statement of transfer provided with the certificate.

(B) When the vessel is subsequently sold, the dealer shall, on the day of the transaction, date and sign the statement of transfer which was received from the previous owner and give it to the new owner. If no certificate of vessel registration is available, a Bill of Sale may be used to document transfer of ownership to the purchaser, provided both parties to the sale sign the Bill of Sale before a notary public.

(C) For a period of 60 days following the transfer of ownership of a once-registered vessel, the new owner may use the certificate of vessel number of the prior owner as a temporary certificate of vessel number, provided the certificate is validated in accordance with Part (b)(1)(A) of this Rule; or a copy of the notarized Bill of Sale may be used as a temporary certificate.

(3) Transfer of a vessel individually-registered to a

dealer or manufacturer. Vessels that have been individually numbered by dealers or manufacturers shall upon transfer of ownership be governed by the provisions of Subparagraph (b)(1) of this Rule.

History Note: Authority G.S. 75A-3; 75A-5; 75A-19; 33 C.F.R. 174.21;

Eff. February 1, 1976;

Amended Eff. July 1, 1998; April 1, 1997; February 1, 1995; November 1, 1993; July 1, 1988; April 19, 1981.

SUBCHAPTER 10H - REGULATED ACTIVITIES

SECTION .0800 - FALCONRY

.0802 PERMIT AND LICENSE REQUIREMENTS

(a) No person shall take a raptor in this state for falconry purposes without having first obtained:

- (1) either:
 - (A) a resident falconry permit issued by this state; or
 - (B) a General or Master Class falconry permit as defined in Rule .0801 of this Section from another state that issues non-resident falconry permits or licenses; and
- (2) a North Carolina resident or non-resident falconry license as required by G.S. 113-270.3(b)(4).

(b) No person shall possess, transport, or import a raptor for falconry purposes or practice falconry in this state without having first obtained and having in possession:

- (1) a falconry permit as defined in Rule .0801 of this Section from this state or another state that issues non-resident falconry permits or licenses.
- (2) a North Carolina resident or non-resident falconry license as required by G.S. 113-270.3(b)(4).
- (3) any other general purpose or special purpose license required by the applicable laws of this state.

History Note: Authority G.S. 113-134; 113-270.3(b)(4); 50 C.F.R. 21.28; 50 C.F.R. 21.29;

Eff. September 1, 1979;

Amended Eff. July 1, 1998.

.0810 TAKING RAPTORS

No raptor shall be taken from the wild in this state except by a person holding a currently valid falconry permit as defined in Rule .0801 of this Section from this state or another state that issues non-resident falconry permits or licenses and a currently valid resident or non-resident falconry license, and then only in accordance with the following instructions:

- (1) Young birds not capable of flight (eyasses) may not be taken without a special permit issued by the commission. These permits shall be issued only to persons holding general or master class falconry permits and are valid during the period May 1 through June 30. No more than two eyasses may be taken by the same permittee during this period.
- (2) First year (passage) birds may be taken only during

the period September 4 through December 31, except that marked raptors may be retrapped at any time.

- (3) Only American kestrels (*Falco sparverius*) and great horned owls (*Bubo Virginianus*) may be taken when over one year old, except that any raptor other than an endangered or threatened species taken under a depredation or other special purpose permit issued by the U.S. Fish and Wildlife Service may be used for falconry by general and master class falconers.

History Note: Authority G.S. 113-134; 113-270.3(b)(4); 50 C.F.R. 21.29;

Eff. September 1, 1979;

Amended Eff. July 1, 1998.

TITLE 16 - DEPARTMENT OF PUBLIC EDUCATION

CHAPTER 6 - ELEMENTARY AND SECONDARY EDUCATION

SUBCHAPTER 6C - PERSONNEL

SECTION .0600 - CODE OF PROFESSIONAL PRACTICE AND CONDUCT FOR NORTH CAROLINA EDUCATORS

.0602 STANDARDS OF PROFESSIONAL CONDUCT

(a) The standards listed in this Section shall be generally accepted for the education profession and shall be the basis for State Board review of performance of professional educators. These standards shall establish mandatory prohibitions and requirements for educators. Violation of these standards shall subject an educator to investigation and disciplinary action by the SBE or LEA.

(b) Professional educators shall adhere to the standards of professional conduct contained in this Rule. Any intentional act or omission that violates these standards is prohibited.

- (1) Generally recognized professional standards. The educator shall practice the professional standards of federal, state, and local governing bodies.
- (2) Personal conduct. The educator shall serve as a positive role model for students, parents, and the community. Because the educator is entrusted with the care and education of small children and adolescents, the educator shall demonstrate a high standard of personal character and conduct.
- (3) Honesty. The educator shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation in the performance of professional duties including the following:
 - (A) statement of professional qualifications;
 - (B) application or recommendation for

- professional employment, promotion, or licensure;
- (C) application or recommendation for college or university admission, scholarship, grant, academic award, or similar benefit;
 - (D) representation of completion of college or staff development credit;
 - (E) evaluation or grading of students or personnel;
 - (F) submission of financial or program compliance reports submitted to state, federal, or other governmental agencies;
 - (G) submission of information in the course of an official inquiry by the employing LEA or the SBE related to facts of unprofessional conduct, provided, however, that an educator shall be given adequate notice of the allegations and may be represented by legal counsel; and
 - (H) submission of information in the course of an investigation by a law enforcement agency, child protective services, or any other agency with the right to investigate, regarding school related criminal activity; provided, however, that an educator shall be entitled to decline to give evidence to law enforcement if such evidence may tend to incriminate the educator as that term is defined by the Fifth Amendment to the U.S. Constitution.
- (4) Proper remunerative conduct. The educator shall not solicit current students or parents of students to purchase equipment, supplies, or services from the educator in a private remunerative capacity. An educator shall not tutor for remuneration students currently assigned to the educator's classes, unless approved by the local superintendent. An educator shall not accept any compensation, benefit, or thing of value other than the educator's regular compensation for the performance of any service that the educator is required to render in the course and scope of the educator's employment. This Rule shall not restrict performance of any overtime or supplemental services at the request of the LEA; nor shall it apply to or restrict the acceptance of gifts or tokens of minimal value offered and accepted openly from students, parents, or other persons in recognition or appreciation of service.
- (5) Conduct with students. The educator shall treat all students with respect. The educator shall not commit any abusive act or sexual exploitation with, to, or in the presence of a student, whether or not that student is or has been under the care or supervision of that educator, as defined below:
- (A) any use of language that is considered profane, vulgar, or demeaning;
 - (B) any sexual act;
 - (C) any solicitation of a sexual act, whether written, verbal, or physical;
 - (D) any act of child abuse, as defined by law;
 - (E) any act of sexual harassment, as defined by law; and
 - (F) any intentional solicitation, encouragement, or consummation of a romantic or physical relationship with a student, or any sexual contact with a student. The term "romantic relationship" shall include dating any student.
- (6) Confidential information. The educator shall keep in confidence personally identifiable information regarding students or their family members that has been obtained in the course of professional service, unless disclosure is required or permitted by law or professional standards, or is necessary for the personal safety of the student or others.
- (7) Rights of others. The educator shall not willfully or maliciously violate the constitutional or civil rights of a student, parent/legal guardian, or colleague.
- (8) Required reports. The educator shall make all reports required by G.S. 115C.
- (9) Alcohol or controlled substance abuse. The educator shall not:
- (A) be under the influence of, possess, use, or consume on school premises or at a school-sponsored activity a controlled substance as defined by G.S. 90-95, the Controlled Substances Act, without a prescription authorizing such use;
 - (B) be under the influence of, possess, use, or consume an alcoholic beverage or a controlled substance on school premises or at a school-sponsored activity involving students; or
 - (C) furnish alcohol or a controlled substance to any student except as indicated in the professional duties of administering legally prescribed medications.
- (10) Compliance with criminal laws. The educator shall not commit any act referred to in G.S. 115C-332 and any felony under the laws of the United States or of any state.
- (11) Public funds and property. The educator shall not misuse public funds or property, funds of a school-related organization, or colleague's funds. The educator shall account for funds collected from students, colleagues, or parents/legal guardians. The educator shall not submit fraudulent requests for reimbursement, expenses, or pay.
- (12) Scope of professional practice. The educator shall not perform any act as an employee in a position for which licensure is required by the rules of the SBE or by G.S. 115C or the North Carolina General Statutes during any period in which the educator's license has been suspended or revoked.
- (13) Conduct related to ethical violations. The educator shall not directly or indirectly use or threaten to use

any official authority or influence in any manner that tends to discourage, restrain, interfere with, coerce, or discriminate against any subordinate or any licensee who in good faith reports, discloses, divulges, or otherwise brings to the attention of an LEA, the SBE, or any other public agency authorized to take remedial action, any facts or information relative to actual or suspected violation of any law regulating the duties of persons serving in the public school system, including but not limited to these Rules.

*History Note: Authority G.S. 115C-295 3;
Eff. May 1, 1998.*

**CHAPTER 7 - NORTH CAROLINA STANDARDS
BOARD FOR PUBLIC SCHOOL ADMINISTRATION**

SECTION .0200 - EXAMINATION PROCEDURES

.0202 WRITTEN EXAMINATION

(a) Three written exams shall be held in locations throughout the state during a calendar year.

(b) The State Board of Education shall adopt the exam. The passing score for the Exam shall be 155. The Exam shall be graded by Educational Testing Service. Applicants may retake the examination at subsequent scheduled administrations.

*History Note: Authority G.S. 115C-290.5(a)(6);
Temporary Adoption Eff. January 1, 1998;
Eff. July 1, 1998.*

TITLE 17 - DEPARTMENT OF REVENUE

**CHAPTER 5 - CORPORATE INCOME AND
FRANCHISE TAX DIVISION**

SUBCHAPTER 5B - FRANCHISE TAX

**SECTION .1400 - APPRAISED VALUATION OF
TANGIBLE AND INTANGIBLE PROPERTY BASE**

**.1402 CARRIER OPERATIONS APPRAISED
PROPERTY EXEMPT**

*History Note: Authority G.S. 105-122; 105-262;
Eff. February 1, 1976;
Amended Eff. January 1, 1994;
Repealed Eff. May 1, 1998.*

**SECTION .1700 - CORPORATIONS
CONDITIONALLY OR PARTIALLY EXEMPT**

.1703 FRANCHISE MOTOR CARRIERS

*History Note: Authority G.S. 105-122; 105-262;
Eff. February 1, 1976;
Amended Eff. January 1, 1994;
Repealed Eff. May 1, 1998.*

TITLE 18 - SECRETARY OF STATE

CHAPTER 6 - SECURITIES DIVISION

SUBCHAPTER 6 - RECORDS

SECTION .1100 - GENERAL PROVISIONS

.1104 DEFINITIONS

As used in this Chapter, the following terms mean:

- (1) "Act" shall mean the North Carolina Securities Act, Chapter 78A of the North Carolina General Statutes, as same has been or may be from time to time amended.
- (2) "Commercial Paper," as referred to in G.S. 78A-16(10), shall mean any note, draft, bill of exchange or bankers acceptance which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which has a maturity at the time of issuance not exceeding nine months, exclusive of days of grace, or any renewal thereof, the maturity of which is likewise limited or any guarantee of such paper or of any such renewal. Commercial paper shall also exemplify the following characteristics:
 - (a) prime quality negotiable paper of a type not ordinarily purchased by the general public;
 - (b) issued to facilitate well recognized types of current operational business requirements; and
 - (c) of a type eligible for discounting by Federal Reserve Banks.
- (3) "Direct Participation Program" shall mean a program which provides for flow-through tax consequences regardless of the structure of the legal entity or vehicle for distribution including, but not limited to, oil and gas programs, real estate programs, agricultural programs, cattle programs, condominium securities, and all other programs of a similar nature, regardless of the industry represented by the program, or any combination thereof. A program may be composed of one or more legal entities or programs but when used herein and in any rules adopted pursuant hereto the term shall include each of the separate entities or programs making up the overall program and the overall program itself. Excluded from this definition are Subchapter S corporate offerings, real estate investment trusts, tax qualified pension and profit sharing plans pursuant to Sections 401 and 403 (a) of the Internal Revenue Code and individual

retirement plans under Section 408 of that Code, and any company registered pursuant to the Investment Company Act of 1940.

- (4) "SEC" shall mean the Securities and Exchange Commission.
- (5) "NASD" shall mean the National Association of Securities Dealers, Inc.
- (6) "NASAA" shall mean the North American Securities Administrators Association, Inc.
- (7) "CRD" shall mean the Central Registration Depository.
- (8) "Investment Contract" as used in G.S. 78A-2(11) includes:
 - (a) Any investment in a common enterprise with the expectation of profit to be derived through the essential managerial efforts of someone other than the investor. In this Subparagraph a "common enterprise" means an enterprise in which the fortunes of the investor are interwoven with and dependent upon the efforts and success of those seeking the investment or of a third party; and
 - (b) Any investment by which an offeree furnishes initial value to an offeror, and a portion of this initial value is subjected to the risks of the enterprise, and the furnishing of this initial value is induced by the offeror's promises or representations which give rise to a reasonable understanding that a valuable benefit of some kind over and above the initial value will accrue to the offeree as a result of the operation of the enterprise, and the offeree does not receive the right to exercise practical and actual control over the managerial decisions of the enterprise.
- (9) "Recognized Securities Manual" shall mean a publication which contains the information required by G.S. 78A-17(2)a. and which has been designated, pursuant to G.S. 78A-49, as a "recognized securities manual" by the administrator.
- (10) "Form D" shall mean the document adopted by the Securities and Exchange Commission, in effect on September 1, 1996 and as may be amended by the SEC from time to time, entitled "FORM D: Notice of Sale of Securities pursuant to Regulation D, Section 4(6), and or Uniform Limited Offering Exemption," including Part E and the Appendix.

History Note: Authority G.S. 78A-49(a);

Eff. April 1, 1981;

Amended Eff. September 1, 1990; October 1, 1988; January 1, 1984;

Temporary Amendment Eff. October 1, 1997;

Amended Eff. August 1, 1998.

SECTION .1200 - EXEMPTIONS

.1206 LIMITED OFFERING EXEMPTION PURSUANT TO G.S. 78A-17(17)

(a) Transactions made in reliance upon Rule 505 of Regulation D promulgated by the Securities and Exchange Commission under the Securities Act of 1933, as amended, 17 C.F.R. 230.505 (1982) and (and as subsequently amended), including any offer or sale made exempt by application of Rule 508(a), as made effective in Release No. 33-6389 and as amended in Release Nos. 33-6437, 33-6663, 33-6758, and 33-6825, shall be exempt from the requirements of G.S. 78A-24, provided there is compliance with the conditions and limitations of this Rule .1206 and Rules .1207 and .1208 of this Section.

(b) No exemption under this Rule .1206 is available for the offer or sale of securities if the issuer or any other person or entity to which Rule .1206 applies is disqualified pursuant to Rule .1207 of this Section unless the administrator, upon application and a showing of good cause by the issuer, or such other person or entity, modifies or waives the disqualification. For purposes of this Rule .1206, "good cause" means a substantial reason amounting in law to a legal excuse for noncompliance with a restriction imposed by Rule .1207, and shall be relevant to considerations of the public interest, the protection of the investing public, the age and nature of the particular disqualifying event, the business experience, qualifications, and disciplinary history of the disqualified person, the need for full disclosure of information relevant to investment decisions, and the burden and cost of compliance with regulatory requirements applicable to the transaction in the absence of the availability of the exemption.

(c) No commission, discount, finder's fee or other similar remuneration or compensation shall be paid, directly or indirectly, to any person for soliciting any prospective purchaser of any security sold to a resident of this State in reliance upon the exemption provided by this Rule .1206 unless such person is either registered pursuant to G.S. 78A-36 or exempt from registration thereunder or the issuer reasonably believes that such person is so registered or exempt therefrom.

(d) In all sales to those accredited investors defined in 17 C.F.R. 230.501(a)(5) who reside in this State (except sales to such accredited investors made by or through a dealer registered under G.S. 78A-36) and in all sales to nonaccredited investors who reside in this State the issuer and any person acting on its behalf shall have reasonable grounds to believe and after making reasonable inquiry shall believe that one of the following conditions is satisfied:

- (1) The investment is suitable for the purchaser upon the basis of the facts, if any, disclosed by the purchaser as to his/her other security holdings and as to his/her financial situation and needs. For the purpose of this condition only, it may be presumed that if the investment does not exceed 10 percent of the investor's net worth, it is suitable.
- (2) The purchaser, either alone or with his/her purchaser representative(s), has such knowledge and experience in financial and business matters that he/she is or they are capable of evaluating the

merits and risks of the prospective investments.

(e) In all sales of direct participation programs securities pursuant to the exemption provided by this Rule .1206, the provisions of Rule .1313 of this Chapter regarding registered offerings of direct participation program securities shall be applicable in addition to all other requirements of this Rule .1206.

(f) Any prospectus or disclosure document used in this state in connection with an offer and sale of securities made in reliance upon the exemption provided by this Rule .1206 shall disclose conspicuously the legend(s) required by the provisions of Rule .1316 of this Chapter.

(g) Nothing in the exemption provided by this Rule .1206 is intended to or shall be construed as in any way relieving the issuer or any person acting on behalf of the issuer from providing disclosure to prospective investors adequate to satisfy the antifraud provisions of the Act.

(h) Transactions which are exempt under this Rule may not be combined with offers and sales exempt under any other rule or section of this Act; however, nothing in this limitation shall act as an election. Should for any reason, an offer and sale of securities made in reliance upon the exemption provided by this Rule .1206 fail to comply with all of the conditions hereof, the issuer may claim the availability of any other applicable exemption.

(i) A failure to comply with a term, condition or requirement of Subparagraphs (a)(2) and (a)(3) of this Rule will not result in loss of the exemption from the requirements of G.S. 78A-24 for any offer or sale to a particular individual or entity if the person relying on the exemption shows:

- (1) the failure to comply did not pertain to a term, condition or requirement directly intended to protect that particular individual or entity; and
- (2) the failure to comply was insignificant with respect to the offering as a whole; and
- (3) a good faith and reasonable attempt was made to comply with all applicable terms, conditions and requirements of Subparagraphs (a)(2) and (a)(3).

Where an exemption is established only through reliance upon this Subparagraph (8) of this Rule, the failure to comply shall nonetheless be actionable by the administrator under G.S. 78A-47.

(j) In any proceeding involving this Rule .1206, the burden of proving the exemption or an exception from a definition or condition is upon the person claiming it.

(k) In view of the objective of this Rule .1206 and the purpose and policies underlying the Act, this exemption is not available to any issuer with respect to any transaction which, although in technical compliance with this Rule .1206, is part of a plan or scheme to evade registration or the conditions or limitations explicitly stated in this Rule .1206 or Rules .1207 and .1208 of this Section. The administrator may, by order, waive any condition of or limitation upon the availability of the exemption provided by this Rule .1206.

(l) In determining whether to waive a condition of or limitation on the availability of the exemption provided by this Rule .1206, the Administrator shall consider matters and information relevant to the public policy intended by G.S.

78A, which is the protection of the investing public from persons effecting securities transactions by employing devices, schemes, or artifices to defraud, making untrue statements of material fact or misleading omission of material fact, and engaging in acts, practices, or courses of business which operate or would operate as a fraud or deceit upon any person. Such considerations shall include, but not be limited to the following:

- (1) the need for full and adequate disclosure of information relevant to investment decisions;
- (2) the business history, qualifications, and disciplinary history of the person or persons effecting the securities transactions;
- (3) the experience, suitability, character, expertise, and financial strength of the offerers in the particular transaction;
- (4) the costs of compliance with applicable regulatory requirements;
- (5) the benefits to the particular investors and to the general investing public of compliance with applicable regulatory requirements;
- (6) the terms, conditions, and provisions of the particular securities transaction; and
- (7) any other factors which are relevant to the protection of the investing public.

(m) The exemption provided by this Rule .1206 shall be known and may be cited as the "North Carolina Limited Offering Exemption."

(n) Pursuant to G.S. 78A-18, the administrator may by order deny or revoke the exemption provided by this Rule .1206 with respect to a specific security or security transaction.

History Note: Filed as a Temporary Rule Eff. October 1, 1983, for a period of 120 days to expire on January 29, 1984;

Authority: G.S. 78A-17(17); 78A-49(a);

Eff. January 1, 1984;

Amended Eff. September 1, 1990; October 1, 1988;

Temporary Amendment Eff. October 1, 1997;

Amended Eff. August 1, 1998.

.1212 NOTICE FILING PROCEDURES FOR OFFERINGS OF INVESTMENT COMPANY SECURITIES

(a) In lieu of filing a copy of the federal registration statement, an investment company offering securities covered under Section 18(b)(2) of the Securities Act of 1933, as amended, may satisfy the notice filing requirement of G.S. 78A-31(a) by filing the fees required by that section, together with Form NF, Uniform Investment Company Notice Filing. This filing need not be made nor fees paid on any security issued by an investment company if such security is exempt pursuant to the provisions of G.S. 78A-16 or 78A-17.

(b) By filing Form NF, an investment company thereby agrees that, upon receipt of a request from the Securities Division, the investment company will promptly provide to the Division a copy of its current prospectus and statement of additional information, if any, as filed with the Securities and

Exchange Commission.

(c) By executing the Form NF, the investment company thereby agrees, that for purposes of complying with the laws of this State, such execution shall be deemed to be the consent of the investment company to have the Administrator irrevocably appointed as its agent in this State upon whom may be served any notice, process or pleading in any action or proceeding against it arising out of, or in connection with, the sale of securities covered by such Form NF or arising out of the violation of the securities laws of this State; and that any action or proceeding against the investment company may be commenced in any court of competent jurisdiction and proper venue within this State by service of process upon the Administrator with the same effect as if the investment company was organized or created under the laws of this State and had been served lawfully with process in this State. In the event any notice, process or pleading is served on the investment company through the Administrator, the Administrator shall promptly provide a copy of such notice, process, or pleading to the person indicated in Item 5 of Form NF.

(d) Upon filing Form NF and paying either the minimum or maximum fees required by G.S. 78A-31(a)(1), the securities of the investment company may be offered for sale and sold into, from, and within this State until the expiration of the notice filing period pursuant to G.S. 78A-31(a)(4). In order to offer or sell its securities after the expiration of its notice filing, the investment company must extend its notice filing as provided in subsection (f) of this Rule. In the event that the Securities Division requests that the investment company provide it with a copy of the investment company's prospectus or statement of additional information, such request shall not restrict the ability of the investment company to offer its securities for sale in this State provided that the Division has received the Form NF and fees as required by G.S. 78A-31(a).

(e) Any investment company that elects to pay a fee less than the maximum fee as provided in G.S. 78A-31(a) shall file a sales report on Form NF, with the Division, within two months after the expiration of the notice filing period.

(f) A notice filing may be renewed by the investment company by filing a current Form NF and paying such fees as are required by G.S. 78A-31(a) within two months after the expiration of the prior notice filing period. Each renewal of a notice filing shall expire on December 31.

(g) Amendments to increase the amount of shares to be offered may be made by filing a revised Form NF, together with the fees required by G.S. 78A-31(a)(5).

*History Note: Authority G.S. 78A-31(a); 78A-49(a);
Temporary Adoption Eff. October 1, 1997;
Eff. August 1, 1998.*

SECTION .1400 - REGISTRATION OF DEALERS AND SALESMEN

.1401 APPLICATION FOR REGISTRATION OF DEALERS

(a) The application for registration as a dealer shall contain

the following:

- (1) an executed Uniform Application for Registration as a Dealer (Form BD) and the appropriate schedules thereto or the appropriate successor form;
- (2) a fee in the amount of two hundred dollars (\$200.00);
- (3) evidence of current registration as a dealer with the Securities and Exchange Commission under the Securities Exchange Act of 1934;
- (4) evidence of compliance with Rule .1410 of this Section; and
- (5) any other information the administrator may from time to time require which is relevant to the applicant's qualifications to engage in the business of acting as a dealer in securities.

(b) The application for registration as a dealer shall be filed as follows:

- (1) NASD member dealers shall file applications for initial registration in the State of North Carolina with the NASAA NASD Central Registration Depository, P.O. Box 37441, Washington, D.C. 20013 and shall file a manually executed Form BD directly with the Securities Division. Applications for renewal of registration shall be filed only with the Central Registration Depository (see Rule .1406 of this Section);
- (2) Non-NASD member dealers shall file all applications for registration in the State of North Carolina directly with the Securities Division.

(c) The dealer shall file with the administrator, as soon as practicable but in no event later than 30 days following such event, notice of any disciplinary action taken against the dealer by any exchange of which the dealer is a member: the Securities and Exchange Commission; the Commodity Futures Trading Commission; any national securities association registered with the Securities and Exchange Commission pursuant to Section 15A of the Securities Exchange Act of 1934 or any state securities commission and of any civil suit filed against the dealer alleging violation of any federal or state securities laws. If the information contained in any document filed with the administrator is or becomes inaccurate or incomplete in any material respect, the dealer shall file a correcting amendment as soon as practicable but in no event later than 30 days following the date on which such information becomes inaccurate or incomplete.

(d) Registration becomes effective at noon of the 30th day after a completed application is filed or such earlier time upon issuance of a license or written notice of effective registration, unless proceedings are instituted pursuant to G.S. 78A-39. The administrator may by order defer the effective date after the filing of any amendment but no later than noon of the 30th day after the filing of the amendment.

(e) Every dealer shall notify the administrator of any change of address, the opening or closing of any office (including the office of any salesman operating apart from the dealer's premises) or any material change thereto, in writing as soon as practicable or by filing concurrently upon filing with NASD an appropriate amendment or schedule to Form BD or

any successor form.

History Note: Authority G.S. 78A-36(a); 78A-37(a); 78A-37(b); 78A-37(d); 78A-38(c); 78A-49(a); Eff. April 1, 1981; Amended Eff. September 1, 1990; October 1, 1988; January 1, 1984; November 1, 1982; Temporary Amendment Eff. October 1, 1997; Amended Eff. August 1, 1998.

SECTION .1500 - MISCELLANEOUS PROVISION

.1509 FORMS

History Note: Authority G.S. 78A-49; Eff. April 1, 1981; Amended Eff. September 1, 1990; October 1, 1988; January 1, 1984; Temporary Amendment Eff. October 1, 1997; Repealed Eff. August 1, 1998.

SECTION .1700 - REGISTRATION OF INVESTMENT ADVISERS AND INVESTMENT ADVISER REPRESENTATIVES

.1702 APPLICATION FOR INVESTMENT ADVISER REGISTRATION/NOTICE FILING FOR INVESTMENT ADVISER COVERED UNDER FEDERAL LAW

(a) The application for initial registration as an investment adviser pursuant to Section 78C-17(a) of the Act shall be filed upon Form ADV (Uniform Application for Investment Adviser Registration) (17 C.F.R. 279.1) with the administrator. The initial application shall include the consent to service of process required by Section 78C-46(b) of the Act, and shall include the following:

- (1) A statement or certificate showing compliance by the investment adviser with the examination requirements of Rule .1709;
 - (2) Such financial statements as set forth in Rule .1708, including at the time of application, a copy of the balance sheet for the last fiscal year, and if such balance sheet is as of a date more than 45 days from the date of filing of the application, an unaudited balance sheet prepared as set forth in Rule .1708 as of a date within 45 days of the date of filing;
 - (3) Evidence of compliance with the minimum financial requirements of Rule .1704;
 - (4) A copy of the surety bond required by Section 78C-17(e), if applicable;
 - (5) The fee required by Section 78C-17(b) of the Act; and
 - (6) Any other information the administrator may from time to time require which is relevant to the applicant's qualifications to engage in the business of acting as an investment adviser.
- (b) The application for renewal of registration as an investment adviser shall be filed on an amended Form ADV

and shall contain the following:

- (1) A copy of the surety bond required by Rule .1705, if applicable; and
 - (2) The fee required by Section 78C-17(b) of the Act.
- (c) The investment adviser shall file with the administrator, as soon as practicable but in no event later than 30 days following the filing of charges, notice of any civil, criminal or administrative charges filed against the investment adviser which relate directly or indirectly to its activities in the securities or financial services business. This notice shall include notification of any investigation by any securities, commodities, or other financial services regulatory agency and any disciplinary, injunctive, restraining, or limiting action taken by such agencies, by any court of competent jurisdiction, or by any state administrator with respect to the investment adviser's activities in the securities or financial services business. Any amendment required by Section 78C-18(d) of the Act for an investment adviser shall be made on Form ADV in the manner prescribed by that form. Any amendment to Form ADV shall be filed with the administrator within the time period specified in the instructions to that form relating to filings made with the Securities and Exchange Commission.
- (d) Registration becomes effective at noon of the 30th day after a completed application is filed or such earlier time upon issuance of a license or written notice of effective registration, unless proceedings are instituted pursuant to G.S. 78C-19. The administrator may by order defer the effective date after the filing of any amendment but no later than noon of the 30th day after the filing of the amendment.
- (e) Every investment adviser shall notify the administrator of any change of address, the opening or closing of any office (including the office of any investment adviser representative operating apart from the investment adviser's premises) or any material change thereto, in writing as soon as practicable.
- (f) The registration of an investment adviser shall expire on December 31 of each year unless timely renewed.
- (g) The notice filing for an investment adviser covered under federal law pursuant to G.S. 78C-17(a1) shall be filed with the Administrator or with a central registration depository designated by the Administrator by filing a copy of the executed Form ADV [Uniform Form for Investment Adviser Registration (17 C.F.R. 279.1)] most recently filed by the investment adviser with the Securities Exchange Commission, and shall include the fee required under G.S. 78C-17(b1).
- (h) Notice filings for investment advisers covered under federal law shall expire on December 31 each year unless renewed prior to expiration. The renewal of the notice filing for an investment adviser covered under federal law pursuant to G.S. 78C-17(a1) shall be made by filing with the Administrator a copy of the most recent Schedule I to the Form ADV most recently filed by the investment adviser with the Securities and Exchange Commission, and shall include the fee required under G.S. 78C-17(b1).

History Note: Filed as a Temporary Rule Eff. January 2, 1989, for a period of 180 days to expire on June 30, 1989; Authority G.S. 78C-16(b); 78C-16(d); 78C-17(a); 78C-

17(a1); 78C-17(b); 78C-17(b1); 78C-17(e); 78C-18(d); 78C-19(a); 78C-30(a); 78C-30(b); 78C-30(c); 78C-30(d); 78C-46(b);

Eff. February 1, 1989;

Temporary Amendment Eff. October 1, 1997;

Amended Eff. August 1, 1998.

.1703 APPLICATION/INVESTMENT ADVISER REPRESENTATIVE REGISTRATION

(a) The application for initial registration as an investment adviser representative pursuant to Section 78C-17(a) of the Act shall be filed upon Form U-4 (Uniform Application for Securities Industry Registration or Transfer) with the administrator and contain the additional information required by this Rule. The initial application shall include the consent to service of process required by Section 78C-46(b) of the Act. The application for initial registration shall also provide the following:

- (1) A statement or certificate showing compliance by the investment adviser representative with the examination requirements of Rule .1709; and

- (2) The fee required by Section 78C-17(b) of the Act.

(b) The application for renewal of registration as an investment adviser representative shall be filed with the administrator. No renewal of registration as an investment adviser representative shall be effected until the fee required by Section 78C-17(b) of the Act is remitted to the administrator.

(c) The investment adviser representative, the investment adviser, or the investment adviser covered under federal law for which the investment adviser representative is registered shall file with the administrator, as soon as practicable but in no event later than 30 days following the filing of charges, notice of any civil, criminal, or administrative charges filed against the investment adviser representative which relate directly or indirectly to his activities in the securities or financial services business. This notice shall include notification of any investigation by any securities, commodities, or other financial services regulatory agency and any disciplinary, injunctive, restraining, or limiting action taken by such agencies, by any court of competent jurisdiction, or by any state administrator with respect to the investment adviser representative's activities in the securities or financial services business. Any amendment required by Section 78C-18(d) of the Act for an investment adviser representative shall be made on Form U-4 in the manner prescribed by that form. Such amended Form U-4 shall be filed with the administrator not later than 30 days following the event necessitating such amendment.

(d) Registration becomes effective at noon of the 30th day after a completed application is filed or such earlier time upon approval of the application by the administrator, unless proceedings are instituted pursuant to G.S. 78C-19. The administrator may by order defer the effective date after the filing of any amendment but no later than noon of the 30th day after the filing of the amendment.

(e) The registration of any investment adviser representative shall expire on December 31 of each year

unless renewed in a timely fashion. The application for renewal of registration of investment adviser representatives shall be submitted by the investment adviser or investment adviser covered under federal law, who shall file with the Securities Division a listing of all investment adviser representatives to be renewed along with their current addresses and social security numbers. The investment adviser representative renewal list shall be submitted in alphabetical order as follows: last name, first name, middle name or maiden name; current address; social security number. A fee of forty-five dollars (\$45.00) for each investment adviser representative made payable to the North Carolina Secretary of State shall be submitted along with the investment adviser representative renewal list.

History Note: Filed as a Temporary Rule Eff. January 2, 1989, for a period of 180 days to expire on June 30, 1989;

Authority G.S. 78C-16(b); 78C-17(a); 78C-17(b); 78C-18(d); 78C-19(a); 78C-30(a); 78C-30(b); 78C-46(b);

Eff. February 1, 1989;

Temporary Amendment Eff. October 1, 1997;

Amended Eff. August 1, 1998.

.1705 BONDING REQUIREMENTS FOR CERTAIN INVESTMENT ADVISERS

(a) Every investment adviser having custody of or discretionary authority over client funds or securities shall be bonded in an amount of not less than thirty-five thousand dollars (\$35,000.00) by a bonding company qualified to do business in this state or in lieu thereof may provide evidence of a deposit of cash or securities in such amount. The requirements of this Rule shall not apply to those applicants or registrants who comply with the requirements of Rule .1704.

(b) Should an investment adviser's bond be terminated by the surety resulting in the investment adviser's failure to meet the requirements of Paragraph (a) of this Rule and the bond was not terminated due to fault of the investment adviser, then the investment adviser shall be provided a reasonable time period up to six months, without the necessity of ceasing to do business as an investment adviser, to obtain another bond in order to meet the requirements of Paragraph (a) of this Rule provided that the investment adviser notifies the administrator in writing within two business days of the termination of the bond and files such further information as the administrator may require regarding the financial status of the investment adviser until evidence of compliance with Paragraph (a) of this Rule is provided.

(c) The surety bond shall be filed with the administrator on Form NCIAB (North Carolina Securities Division Investment Adviser's Bond) or on a form whose terms are substantially equivalent to the terms of Form CDCS-1A and which is approved as the substantial equivalent by the Administrator. Evidence of a deposit of cash or securities shall be filed with the administrator on Form CDCS-1A (Certification of Deposit of Cash or Securities -- Investment Advisers) or on a form whose terms are substantially equivalent to the terms of Form CDCS-1A and which is approved as the substantial equivalent by the Administrator.

(d) An investment adviser that has its principal place of business in a state other than this state shall be exempt from the requirements of Paragraph (a) of this Rule, provided that the investment adviser is registered as an investment adviser in the state where it has its principal place of business and is in compliance with such state's requirements relating to bonding, if any.

History Note: Filed as a Temporary Rule Eff. January 2, 1989, for a period of 180 days to expire on June 30, 1989; Authority G.S. 78C-17(d); 78C-18(b); 78C-18(c); 78C-30(a); Eff. February 1, 1989; Temporary Amendment Eff. October 1, 1997; Amended Eff. August 1, 1998.

SECTION .1800 - MISCELLANEOUS PROVISION- INVESTMENT ADVISERS

.1805 PERFORMANCE-BASED COMPENSATION EXEMPTION

(a) For purposes of this Rule:

- (1) "Affiliate" shall have the same definition as in Section 2(a)(3) of the federal Investment Company Act of 1940;
- (2) "Client's independent agent" means any person who agrees to act as an investment advisory client's agent in connection with an advisory contract, but does not include:
 - (A) The investment adviser relying on this Rule;
 - (B) An affiliated person of the investment adviser or an affiliated person of an affiliated person of the investment adviser including an investment adviser representative;
 - (C) An interested person of the investment adviser;
 - (D) A person who receives, directly or indirectly, any compensation in connection with the advisory contract from the investment adviser, an affiliated person of the investment adviser, an affiliated person of an affiliated person of the investment adviser or an interested person of the investment adviser; or
 - (E) A person with any material relationship between himself (or an affiliated person of that person) and the investment adviser (or an affiliated person of the investment adviser) that exists, or has existed at any time during the past two years;
- (3) "Company" means a corporation, partnership, association, joint stock company, trust, or any organized group of persons, whether incorporated or not; or any receiver, trustee in a case under Title 11 of the United States Code, or similar official or any liquidating agent for any of the foregoing, in his capacity as such. "Company" shall not include:
 - (A) A company required to be registered under the federal Investment Company Act of 1940

but which is not so registered;

- (B) A private investment company (for purposes of this Subparagraph (B), a private investment company is a company which would be defined as an investment company under Section 3(a) of the federal Investment Company Act of 1940 but for the exception from that definition provided by Section 3(c)(1) of that act);
 - (C) An investment company registered under the federal Investment Company Act of 1940; or
 - (D) A business development company as defined in Section 202(a)(22) of the federal Investment Company Advisers Act of 1940, unless each of the equity owners of any such company, other than the investment adviser entering into the contract, is a natural person or company within the meaning of Subparagraph (a)(3) of this Rule;
- (4) "Interested person" means:
- (A) Any parent, spouse, child, or brother or sister of any natural person who is an affiliated person of the investment adviser;
 - (B) Any person who knowingly has any direct or indirect beneficial interest in, or who is designated as trustee, executor, or guardian of any legal interest in, any security issued by the investment adviser or by a controlling person of the investment adviser if that beneficial or legal interest exceeds:
 - (i) one tenth of one percent of any class of outstanding securities of the investment adviser or a controlling person of the investment adviser; or
 - (ii) five percent of the total assets of the person seeking to act as the client's independent agent; or
 - (C) Any person or partner or employee of any person who, at any time since the beginning of the last two years, has acted as legal counsel for the investment adviser.
- (b) Notwithstanding Section 78C-8(c)(1) of the Act, an investment adviser may enter into, extend or renew an investment advisory contract which provides for compensation to the investment adviser on the basis of a share of capital gains upon or capital appreciation of the funds, or any portion of the funds, of the client if the conditions in Subparagraphs (c) through (h) of this Rule are met.
- (c) The client entering into the contract must be:
- (1) A natural person or a company who, immediately after entering into the advisory contract has at least five hundred thousand dollars (\$500,000.00) under the management of the investment adviser; or
 - (2) A person who the investment adviser and its investment adviser representatives reasonably believe, immediately before entering into the contract, is a natural person or a company whose net worth, at the time the contract is entered into,

exceeds one million dollars (\$1,000,000.00).

For purposes of this Rule, the term "net worth" shall have the same meaning as that provided by Rule .1313(b)(2). The net worth of a natural person may include assets held jointly with that person's spouse.

(d) The compensation paid to the investment adviser with respect to the performance of any securities over a given period must be based on a formula with the following characteristics:

- (1) In the case of securities for which market quotations are readily available within the meaning of Rule 2a-4(a)(1) under the Investment Company Act of 1940, (Definition of "Current Net Asset Value" for Use in Computing Periodically the Current Price of Redeemable Security), 17 C.F.R. 270.2a-4(a)(1), the formula must include the realized capital losses and unrealized capital depreciation of the securities over the period;
 - (2) In the case of securities for which market quotations are not readily available within the meaning of Rule 2a-4(a)(1) under the Investment Company Act of 1940, 17 C.F.R. 270.2a-4(a)(1), the formula must include:
 - (A) the realized capital losses of securities over the period; and
 - (B) if the unrealized capital appreciation of the securities over the period is included, the unrealized capital depreciation of the securities over the period; and
 - (3) The formula must provide that any compensation paid to the investment adviser under this Rule is based on the gains less the losses (computed in accordance with Subparagraphs (1) and (2) of this Paragraph) in the client's account for a period of not less than one year.
- (e) Before entering into the advisory contract and in addition to the requirements of Form ADV, the investment adviser must disclose in writing to the client or the client's independent agent all material information concerning the proposed advisory arrangement, including the following:
- (1) That the fee arrangement may create an incentive for the investment adviser to make investments that are riskier or more speculative than would be the case in the absence of a performance fee;
 - (2) Where relevant, that the investment adviser may receive increased compensation with regard to unrealized appreciation as well as realized gains in the client's account;
 - (3) The periods which will be used to measure investment performance throughout the contract and their significance in the computation of the fee;
 - (4) The nature of any index which will be used as a comparative measure of investment performance, the significance of the index, and the reason the investment adviser believes that the index is appropriate; and
 - (5) Where the investment adviser's compensation is based in part on the unrealized appreciation of

securities for which market quotations are not readily available within the meaning of Rule 2a-4(a)(1) under the Investment Company Act of 1940, 17 C.F.R. 270.2a-4(a)(1), how the securities will be valued and the extent to which the valuation will be independently determined.

(f) The investment adviser (and any investment adviser representative) who enters into the contract must reasonably believe, immediately before entering into the contract, that the contract represents an arm's length arrangement between the parties and that the client (or in the case of a client which is a company as defined in Subparagraph (a)(3) of this Rule, the person representing the company), alone or together with the client's independent agent, understands the proposed method of compensation and its risks. The representative of a company may be a partner, director, officer or an employee of the company or the trustee, where the company is a trust, or any other person designated by the company or trustee, but must satisfy the definition of client's independent agent set forth in Subparagraph (a)(2) of this Rule.

(g) Any person entering into or performing an investment advisory contract under this Rule is not relieved of any obligations under Section 78C-8(a) or any other applicable provision of the Act or any rule or order thereunder.

(h) Nothing in this Rule shall relieve a client's independent agent from any obligation to the client under applicable law.

History Note: Filed as a Temporary Rule Eff. January 2, 1989, for a period of 180 days to expire on June 30, 1989; Authority G.S. 78C-8(b); 78C-8(c)(i); 78C-8(f); 78C-30(a); Eff. February 1, 1989; Temporary Amendment Eff. October 1, 1997; Amended Eff. August 1, 1998.

.1811 FORMS

History Note: Filed as a Temporary Rule Eff. January 2, 1989, for a period of 180 days to expire on June 30, 1989; Authority G.S. 78C-30(a); 78C-30(b); Eff. February 1, 1989; Amended Eff. September 1, 1990; Temporary Amendment Eff. October 1, 1997; Repealed Eff. August 1, 1998.

TITLE 21 - OCCUPATIONAL LICENSING BOARDS

CHAPTER 2 - BOARD OF ARCHITECTURE

SECTION .0200 - PRACTICE OF ARCHITECTURE

.0213 INDIVIDUAL LICENSES

(a) Renewal. Licenses must be renewed on or before the first day of July in each year. No less than 30 days prior to the renewal date, a renewal application shall be mailed to each individual licensee. The licensee shall complete the current license renewal form adopted by the Board, including continuing education credit earned. The completed form for

license renewal, along with the annual license renewal fee shall be forwarded to the Board. If the application form is incomplete or the annual renewal fee is not paid, the application for renewal shall not be accepted. Also, if the accompanying draft or check in the amount of the renewal fee is dishonored by the architect's drawee bank for any reason, the annual license renewal shall be deemed to be not renewed. Once the annual renewal has been completed according to the provisions of G.S. 83A-11, as well as Section .0900 of these Rules, the Executive Director shall issue to the licensee a current license for the ensuing year.

(b) Late Renewal and Reinstatement. If the Board has not received the annual renewal fee and completed application on or before August 1st, the license shall be deemed automatically revoked. The license may be renewed at any time within one year following August 1st, upon the return of the completed application, the annual renewal fee and the late renewal penalty and compliance with Section .0900 of these Rules. After one year from the date of revocation for non-payment of the annual renewal fee, reinstatement shall occur according to the directives of G.S. 83A-11 and Section .0900 of these Rules.

History Note: Authority G.S. 83A-6; 83A-11;

Eff. February 1, 1976;

Readopted Eff. September 29, 1977;

Amended Eff. July 1, 1999; May 1, 1989; November 1, 1979.

SECTION .0900 - CONTINUING EDUCATION

.0901 SCOPE

(a) The rules in this Section set forth the continuing education requirements to be earned by registrants in calendar year 1999 and reported for renewal by July 1, 2000.

(b) These Rules shall apply to every active registrant except those excepted by Rule .0906 of this Section.

History Note: Authority G.S. 83A-6(a)(4); 83A-6(a)(5); 83A-11;

Eff. July 1, 1998.

.0902 DEFINITIONS

The following definition shall apply: "Contact Hour" means a minimum of 50 minutes contact.

History Note: Authority G.S. 83A-6(a)(4); 83A-6(a)(5); 83A-11;

Eff. July 1, 1998.

.0903 REQUIREMENTS

(a) Every registrant shall obtain 12 contact hours for each calendar year.

(b) The contact hours shall be in technical and professional architectural subjects directly related to safeguarding health, safety and welfare.

(c) Registrants shall not carry forward any contact hours into the subsequent period.

(d) Registrants shall verify completion of the contact hours

for the previous calendar year with registration renewal.

History Note: Authority G.S. 83A-6(a)(4); 83A-6(a)(5); 83A-11;

Eff. July 1, 1998.

.0904 DETERMINATION OF CREDIT

(a) The Board has final authority with respect to approval of course sponsors, courses, programs, and contact hours.

(b) The Board shall not preapprove individual courses or programs. The Board may enter into agreements with course and program sponsors in which the sponsor agrees to offer courses and programs that comply with the subject matter requirements of G.S. 83A-6(a) and the credit calculation requirements of Rule .0902 of this Section, agrees to maintain for a period of two years records of course content and attendance, and agrees to permit a representative of the Board to monitor or review any course or program the sponsor offers to North Carolina registrants for credit. Courses or programs offered and approved by the American Institute of Architects and other approved course sponsors shall indicate, in advance, the contact hours for each course or program. Provided the sponsor complies with the sponsor agreement, the Board shall accept as presumptively valid contact hours earned by registrants from approved sponsors.

(c) Credit for the Architect Development Verification Program of the National Council of Architectural Registration Boards (NCARB) shall be approved for the contact hours assigned by NCARB.

(d) Credit for teaching or instructing qualifying courses or programs shall be twice the contact hours earned by participants and shall be claimed for credit only once.

(e) Registrants may claim contact hours for courses or programs that have not been presented by approved sponsors but only credit from approved sponsors shall be presumptively valid. The Board may randomly audit the compliance of individual registrants and require proof in the form of records maintained pursuant to Rule .0905(b) of this Section of participation in courses or programs that conform with the content and contact hours calculation requirements contained in G.S. 83A-6(a) and these Rules.

History Note: Authority G.S. 83A-6(a)(4); 83A-6(a)(5); 83A-11;

Eff. July 1, 1998.

.0905 RECORD KEEPING

(a) The registrant shall maintain records to support credits claimed. Records required include:

- (1) A log showing the type of activity claimed, sponsoring organization, location, duration, the name of the instructor or speaker and contact hours earned; or
- (2) Attendance certificates or other evidence of participation; or
- (3) Records maintained by the American Institute of Architects Continuing Education System(AIA/CES).

(b) Records shall be retained by the registrant for a period of two years after the credit is claimed and provided to the Board upon request.

*History Note: Authority G.S. 83A-6(a)(4); 83A-6(a)(5); 83A-11;
Eff. July 1, 1998.*

.0906 EXCEPTIONS

A registrant shall be exempt from the continuing education requirements for any of the following reasons:

- (1) New registrants by way of examination or reciprocity for the current registration year.
- (2) A registrant serving on temporary active duty in the armed forces of the United States for a period of time exceeding 90 consecutive days in a year.
- (3) Registrants experiencing physical disability or illness if supporting documentation is approved by the Board. Such documentation shall be in the form of a sworn statement by the registrant, a statement from a physician, or medical records which show that the disability or illness prevented registrant's participation in a course which the registrant had enrolled, or prevented registrant's participation in the continuing education program for at least 90 consecutive days in a year.
- (4) Registrants who receive emeritus status from the Board. In order to return to active practice, registrants shall complete continuing education requirements for each exempted year not to exceed two years.

*History Note: Authority G.S. 83A-6(a)(4); 83A-6(a)(5); 83A-11;
Eff. July 1, 1998.*

.0907 REINSTATEMENT

A former registrant may only apply for reinstatement pursuant to G.S. 83A-11 if he has earned all delinquent contact hours within the 12 months preceding the application. However, if the total number of contact hours required to become current exceeds 24, then 24 shall be the maximum number required.

*History Note: Authority G.S. 83A-6(a)(4); 83A-6(a)(5); 83A-11;
Eff. July 1, 1998.*

.0908 RECIPROCITY

The requirements of North Carolina shall be deemed satisfied by a non-resident registrant provided:

- (1) Registrant's resident jurisdiction has a comparable continuing education program; and
- (2) The same jurisdiction accepts the North Carolina continuing education requirements as satisfying their requirements.

History Note: Authority G.S. 83A-6(a)(4); 83A-6(a)(5);

83A-11;

Eff. July 1, 1998.

.0909 FORMS

All renewal applications shall require the completion of a continuing education form specified by the Board documenting the contact hours claimed for the renewal period. The registrant shall supply sufficient detail to permit audit verification and shall certify and sign the continuing education form with the renewal application and fee.

*History Note: Authority G.S. 83A-6(a)(4); 83A-6(a)(5); 83A-11;
Eff. July 1, 1998.*

.0910 NON-COMPLIANCE

(a) If any credits are disallowed by the Board, then the registrant shall have 90 calendar days after notification to substantiate the original claim or obtain other contact hours to meet the minimum requirements.

(b) Failure to comply with the requirements of this Section shall result in non-renewal of registration with the following exceptions:

- (1) After the first year of implementation of these requirements, the registrant shall be renewed and assessed a two hundred fifty dollars (\$250.00) civil penalty. Said civil penalty shall be stayed and shall be dismissed if the required contact hours are earned prior to the next renewal.
- (2) After the second year of implementation of these requirements, the registrant shall pay the civil penalty of two hundred fifty dollars (\$250.00).

*History Note: Authority G.S. 83A-6(a)(4); 83A-6(a)(5); 83A-11; 83A-15;
Eff. July 1, 1998.*

**CHAPTER 8 - BOARD OF CERTIFIED PUBLIC
ACCOUNTANT EXAMINERS**

SUBCHAPTER 8A - DEPARTMENTAL RULES

SECTION .0300 - DEFINITIONS

.0301 DEFINITIONS

(a) The definitions set out in G.S. 93-1(a) shall apply when those defined terms are used in 21 NCAC 8.

(b) In addition to the definitions set out in G.S. 93-1(a), the following definitions and other definitions in this Section apply when these terms are used in 21 NCAC 8:

- (1) "Active." when used to refer to the status of a person, describes a person who possesses a North Carolina certificate of qualification and who has not otherwise been granted "Retired." "Inactive." or "Conditional" status:
- (2) "Agreed upon procedure" means a client has engaged a CPA to issue a report of findings based on specific procedures performed on specific

- subject matter of specified elements, accounts, or accounting information that is part of but significantly less than a financial statement;
- (3) "AICPA" means the American Institute of Certified Public Accountants;
 - (4) "Applicant" means a person who has applied to take the CPA examination;
 - (5) "Attest service" means:
 - (A) any audit,
 - (B) any review of a financial statement,
 - (C) any compilation of a financial statement when the CPA expects, or reasonably might expect, that a third party will use the compilation and the CPA does not disclose a lack of independence, and
 - (D) any examination of prospective financial information;
 - (6) "Audit" means an examination of financial statements of a person by a CPA, conducted in accordance with generally accepted auditing standards, to determine whether, in the CPA's opinion, the statements conform with generally accepted accounting principles or, if applicable, with another comprehensive basis of accounting;
 - (7) "Board" means the North Carolina State Board of Certified Public Accountant Examiners;
 - (8) "Calendar year" means the 12 months beginning January 1 and ending December, 31;
 - (9) "Candidate" means a person whose application to take the CPA examination has been accepted and who may sit for the CPA examination;
 - (10) "Client" means one who orally or in writing agrees with a person or firm holding out pursuant to 21 NCAC 8A .0308 to receive any services included in 21 NCAC 8A .0307;
 - (11) "Commission" means compensation, except a referral fee, for recommending or referring any product or service to be supplied by another person;
 - (12) "Compilation of a financial statement" means presenting in the form of a financial statement information that is the representation of any other person without the CPA's undertaking to express any assurance on the statement;
 - (13) "Conditional," when used to refer to the status of a person, describes a person who holds a North Carolina certificate of qualification under certain conditions as imposed by the Board, such as additional requirements for failure to complete the required CPE hours in a calendar year;
 - (14) "Contingent fee" means a fee established for the performance of any service pursuant to an arrangement in which no fee will be charged unless a specified finding or result is attained, or in which the amount of the fee is otherwise dependent upon the finding or result of such service;
 - (15) "CPA" means certified public accountant;
 - (16) "CPE" means continuing professional education;
 - (17) "Disciplinary action" means revocation or suspension of, or refusal to grant, membership, or the imposition of a reprimand, probation, constructive comment, or any other penalty or condition;
 - (18) "Disclosure" means a written statement of the service to be rendered with the contingent fee to be charged and which is dated and signed by the client;
 - (19) "Examination of prospective financial information" means an evaluation by a CPA of:
 - (A) a forecast or projection,
 - (B) the support underlying the assumptions in the forecast or projection,
 - (C) whether the presentation of the forecast or projection is in conformity with AICPA presentation guidelines, and
 - (D) whether the assumptions in the forecast or projection provide a reasonable basis for the forecast or projection;
 - (20) "FASB" means the Financial Accounting Standards Board;
 - (21) "Firm" means an individual proprietor, a partnership, a professional corporation, a professional limited liability company, or a registered limited liability partnership;
 - (22) "Forecast" means prospective financial statements that present, to the best of the responsible party's knowledge and belief, an entity's expected financial position, results of operations, and changes in financial position or cash flows that are based on the responsible party's assumptions reflecting conditions it expects to exist and the course of action it expects to take;
 - (23) "GASB" means the Governmental Accounting Standards Board;
 - (24) "Inactive," when used to refer to the status of a person, describes one who has requested inactive status and been approved by the Board and who does not use the title "certified public accountant" nor does he or she allow anyone to refer to him or her as a "certified public accountant," and neither he or she nor anyone else refers to him or her in any representation as described in 21 NCAC 8A .0308(b).
 - (25) "IRS" means the Internal Revenue Service;
 - (26) "License year" means the 12 months beginning July 1 and ending June 30;
 - (27) "Member of a firm" means any CPA who has an ownership interest in a CPA firm including owners, partners and shareholders;
 - (28) "NASBA" means the National Association of State Boards of Accountancy;
 - (29) "NCACPA" means the North Carolina Association of Certified Public Accountants;
 - (30) "North Carolina office" means any office physically located in North Carolina;
 - (31) "Participating firm" means a firm participating in the SQR program. It does not include firms exempt by reason of 21 NCAC 8M .0102(a) or deemed in

- compliance pursuant to 21 NCAC 8M .0104:
- (32) "Person" means any natural person, corporation, partnership, professional limited liability company, registered limited liability partnership, unincorporated association, or other entity;
 - (33) "Projection" means prospective financial statements that present, to the best of the responsible party's knowledge and belief, given one or more hypothetical assumptions, an entity's expected financial position, results of operations, and changes in financial position or cash flows that are based on the responsible party's assumptions reflecting conditions it expects would exist and the course of action it expects would be taken given such hypothetical assumptions;
 - (34) "Referral fee" means compensation for recommending or referring any service of a CPA to any person;
 - (35) "Retired," when used to refer to the status of a person, describes one possessing a North Carolina certificate of qualification who verifies to the Board that the applicant does not receive or intend to receive in the future any earned compensation for current personal services in any job whatsoever and will not return to active status. However, retired status does not preclude volunteer services for which the retired CPA receives no direct nor indirect compensation so long as the retired CPA does not sign any documents, related to such services, as a CPA;
 - (36) "Revenue Department" means the North Carolina Department of Revenue;
 - (37) "Review" means to perform an inquiry and analytical procedures that permit a CPA to determine whether there is a reasonable basis for expressing limited assurance that there are no material modifications that should be made to financial statements in order for them to be in conformity with generally accepted accounting principles or, if applicable, with another comprehensive basis of accounting;
 - (38) "SQR Advisory Committee" means the State Quality Review Advisory Committee to the Board;
 - (39) "SQR Program" means the State Quality Review Program of the North Carolina State Board of Certified Public Accountant Examiners;
 - (40) "SQR Review team" means that team of CPAs which reviews a firm pursuant to the requirements of Subchapter 8M. A review team may be comprised of one or more members;
 - (41) "SQR Review team captain" means that member of a review team who is responsible for the review and supervises the other members of the team;
 - (42) "SQR Reviewer" means a member of a review team including the review team captain;
 - (43) "Suspension" means a revocation for a specified period of time. A CPA may be reinstated after a specific period of time if the CPA has met all

conditions imposed by the Board at the time of suspension; and

- (44) "Trade name" means a name used to designate a business enterprise.

History Note: Authority G.S. 93-1; 93-12(8c);

Eff. February 1, 1976;

Readopted Eff. September 26, 1977;

Amended Eff. August 1, 1998; February 1, 1996; April 1, 1994; September 1, 1992.

.0309 CONCENTRATION IN ACCOUNTING

- (a) A concentration in accounting shall include:

- (1) at least 30 semester hours, or the equivalent in quarter hours, of undergraduate accountancy courses which shall include no more than six semester hours of accounting principles and no more than three semester hours of business law; or
- (2) at least 20 semester hours or the equivalent in quarter hours, of graduate accounting courses that are open exclusively to graduate students; or
- (3) a combination of undergraduate and graduate courses which would be equivalent to Subparagraph (1) or (2).

(b) In recognition of differences in the level of graduate and undergraduate courses, one semester (or quarter) hour of graduate study in accounting shall be considered the equivalent of one and one-half semester (or quarter) hours of undergraduate study in accounting.

(c) Up to four semester hours, or the equivalent in quarter hours, of graduate income tax courses completed in law schools may count toward the semester hour requirement of Paragraph (a) of this Rule.

(d) Where, in the Board's discretion, an accounting course duplicates another course previously taken, only the semester (or quarter) hours of one of the courses shall be counted in determining if the applicant has a concentration in accounting.

(e) Accounting courses include such courses as principles courses at the elementary, intermediate and advanced levels; managerial accounting; business law; cost accounting; fund accounting; auditing; and taxation. There are many college courses offered that would be helpful in the practice of accountancy, but are not included in the definition of a concentration in accounting. Such courses include business finance, business management, computer science, economics, writing skills, accounting internships, and CPA exam review.

(f) A candidate who has conditional credit prior to January 1, 2001, may continue to apply to sit for the examination as long as the conditional credit is valid. A candidate who no longer has valid conditional credit after January 1, 2001, shall be required to meet all education requirements in effect at the time of the candidates's subsequent application.

History Note: Authority G.S. 93-12(5);

Eff. May 1, 1989;

Amended Eff. January 1, 2001; April 1, 1994.

SUBCHAPTER 8F - REQUIREMENTS FOR

CERTIFIED PUBLIC ACCOUNTANT EXAMINATION AND CERTIFICATE APPLICANTS

SECTION .0100 - GENERAL PROVISIONS

.0103 FILING OF EXAMINATION APPLICATIONS AND FEES

(a) All applications for CPA examinations shall be filed with the Board, accompanied by the examination fee. The Board sets the fee for each examination at the amount that enables the Board to recover its costs in administering the examination. If a check or credit card authorization fails to clear the bank, the application shall be deemed incomplete and returned.

(b) Completed initial applications shall be postmarked with proper postage not later than the last day of January for the spring examination and not later than the last day of July for the fall examination. Completed re-exam applications shall be postmarked with proper postage not later than the last day of February for the spring examination and not later than the last day of August for the fall examination. If one of those dates falls on a weekend or federal holiday, the application shall be postmarked or received in the Board office on the next business day. Only a U.S. Postal Service cancellation shall be considered as the postmark. If an application is sent to the Board office via a private delivery service, the date the package is received by the delivery service shall be considered as the postmark.

(c) The initial application filed to take the examination shall include supporting documentation demonstrating that all legal requirements have been met, such as:

- (1) minimum legal age;
- (2) education;
- (3) experience, if required in order to qualify for the examination; and
- (4) good moral character;
- (5) Any person born outside the United States shall furnish to the Board office evidence of citizenship; evidence of resident alien status; or
 - (A) other bona fide evidence that the applicant is legally allowed to remain in the United States for the purposes of becoming a U.S. citizen, or
 - (B) a notarized affidavit of intention to become a U.S. citizen, or
 - (C) evidence that the applicant is a citizen of a foreign jurisdiction which extends to citizens of this state like or similar privileges to be examined.

(d) Official transcripts (originals - not photocopies) signed by the college registrar and bearing the college seal are required to prove education and degree requirements. A letter from the college registrar of the school may be filed as documentation that the applicant has met the graduation requirements if the degree has not been awarded and posted to the transcript. However, no examination grades shall be released until an official transcript is filed confirming the information supplied in the college registrar's letter. All

applicants submitting transcripts from foreign schools for consideration of degree and of meeting accountancy course requirements shall have had the transcript(s) evaluated by Foreign Academic Credential Service, Inc. (FACS) or a comparable educational evaluation service. Applicants shall determine that their transcripts contain all information required by these Rules.

(e) If experience is required to qualify for examination, affidavits shall be prepared and signed by employers on forms supplied by the Board.

(f) In order to document good moral character as required by Subparagraph (c)(4) of this Rule, three certificates of good moral character signed by persons not related by blood or marriage to the applicant shall accompany the application.

(g) All applications for re-examination shall be accompanied by three new certificates of moral character. No additional statements and affidavits regarding experience and education shall be required for applications for re-examination.

(h) An applicant shall include as part of any application for the CPA examination a statement of explanation and a certified copy of court records if the applicant has been convicted or found guilty of or pleaded nolo contendere to any felony, or to any other criminal offense of which an essential element is:

- (1) dishonesty, deceit, or fraud;
- (2) violation of a federal or state tax law; or
- (3) commission of any act or conduct discreditable to the accountancy profession in violation of the Rules of Professional Ethics and Conduct of Certified Public Accountants, unless such information has been furnished in a previous application filed with the Board.

(i) If an applicant has been denied any license by any state or federal agency, the applicant shall include as part of the application for the CPA examination a statement explaining such denial. An applicant shall include a statement of explanation and a certified copy of applicable license records if the applicant has been registered with or licensed by a state or federal agency and has been disciplined by that agency.

(j) Two recent identical photographs shall accompany the application for the CPA examination. These photographs shall have been taken within the last six months. The photographs shall be of the applicant alone, 2 x 2 inches in size, with an image size from the bottom of the chin to the top of the head, including hair, of between 1 and 1-3/8 inches. Photographs shall be clear, front view, full face, taken in normal street attire without a hat or dark glasses, and printed on thin paper with a plain light background. They shall be capable of withstanding a mounting temperature of 225 degrees Fahrenheit (107 degrees Celsius). They may be in black and white or in color. Snapshots, most vending-machine prints, and magazine or full-length photographs are unacceptable. Photographs retouched so that the applicant's appearance is changed are unacceptable. Applicants shall write their names on the back of their photos.

(k) If an applicant's name has legally changed and is different from the name on any transcript or other document

supplied to the Board, the applicant shall furnish copies of the documents legally authorizing the name change.

History Note: Authority G.S. 93-12(3); 93-12(4); 93-12(5); Eff. February 1, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. August 1, 1998; February 1, 1996; April 1, 1994; March 1, 1990.

SECTION .0300 - EDUCATION REQUIREMENTS FOR EXAMINATION

.0302 EDUCATION AND WORK EXPERIENCE REQUIRED PRIOR TO CPA EXAM

(a) Under G.S. 93-12(5) there are two ways an applicant for the CPA examination can demonstrate the possession of sufficient education to become a CPA:

- (1) the possession of a bachelor's degree in any subject, from a regionally accredited college or university, that either includes or is supplemented by a concentration in accounting as defined in 21 NCAC 8A .0309; and
- (2) compliance with the requirements set forth in 21 NCAC 8F .0304, which provides for special examinations in lieu of formal education.

(b) Applicants who intend to demonstrate their possession of sufficient education to become a CPA by showing that they possess a bachelor's degree shall submit official transcripts with their application to take the CPA examination. Official transcripts shall show the grades the applicant received on courses completed and shall also show degrees awarded. An official transcript bears the seal of the school and the signature of the registrar or assistant registrar.

(c) With regard to Paragraph (a)(1) of this Rule, the Board may approve an application to take the CPA examination prior to the receipt of a bachelor's degree, if:

- (1) the concentration in accounting which shall be included in or supplement the bachelor's degree is already complete or is reasonably expected to be completed by the end of the school term within which the examination falls; and
- (2) an applicant reasonably expects to receive the bachelor's degree within 120 days after the last day of the examination. However, if the applicant fails to receive the degree within the specified time, the CPA examination grades shall not be released and if the applicant wishes to retake the examination, the applicant shall reapply.

(d) With regard to Paragraph (a)(2) of this Rule, the applicant shall complete the work experience that is required by all candidates for certification, and set forth in 21 NCAC 8F .0401, prior to the date the applicant applies for the CPA examination.

History Note: Authority G.S. 93-12(3); 93-12(5); Eff. February 1, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. August 1, 1998; April 1, 1994; May 1, 1989;

September 1, 1988.

SUBCHAPTER 8G - CONTINUING PROFESSIONAL EDUCATION (CPE)

SECTION .0400 - CPE REQUIREMENTS

.0404 REQUIREMENTS FOR CPE CREDIT

(a) A CPA shall not be granted CPE credit for a course unless the course:

- (1) is in one of the six fields of study recognized by the Board and set forth in Paragraph (b) of this Rule;
- (2) is actually developed by an individual who has education and work experience in the subject matter of the course; and
- (3) uses instructional techniques and materials that are current and accurate.

(b) The six fields of study recognized by the Board are based on the subject areas that are set forth in the AICPA National CPE Curriculum. The six fields are accounting and auditing, consulting services, management, personal development, specialized knowledge and applications, and taxation.

- (1) The accounting and auditing field of study includes accounting and financial reporting subjects, the body of knowledge dealing with recent pronouncements of authoritative accounting principles issued by the standard-setting bodies, and any other related subject generally classified within the accounting discipline. It also includes auditing subjects related to the examination of financial statements, operations systems, and programs; the review of internal and management controls; and the reporting on the results of audit findings, compilation, and review.
- (2) The consulting services field of study deals with all consulting services provided by professional accountants-management, business, personal, and other. It includes management consulting services and personal financial planning services. This field also covers an organization's various systems, the services provided by consultant practitioners, and the engagement management techniques that are typically used. An organization's systems include those dealing with planning, organizing, and controlling any phase of individual financial activity and business activity. Services provided encompass those for management, such as designing, implementing, and evaluating operating systems for organizations, as well as business consulting services and personal financial planning.
- (3) The management field of study considers the management needs of individuals primarily in public practice, industry, and government. Some subjects concentrate on the practice management area of the public practitioner, such as organizational structures, marketing services, human resource management, and administrative

practices. For individuals in industry, there are subjects dealing with the financial management of the organization, including information systems, budgeting, and asset management, as well as items covering management planning, buying and selling businesses, contracting for goods and services, and foreign operations. For CPAs in government, this curriculum embraces budgeting, cost analysis, human resource management, and financial management in state and local governmental entities. In general, the emphasis in this field is on the specific management needs of CPAs and not on general management skills.

- (4) The personal development field of study includes becoming a competent people manager, which covers such skills as communications, managing the group process, and dealing effectively with others in interviewing, counseling, and career planning. Public relations and professional ethics are also treated.
- (5) The specialized knowledge and applications field of study treats subjects related to specialized industries, such as not-for-profit organizations, health care, and oil and gas. An industry is defined as specialized if it has unusual:

- (A) forms of organization;
- (B) economic structure;
- (C) sources of financing;
- (D) statutory or regulatory requirements;
- (E) marketing or distribution;
- (F) terminology;
- (G) technology;
- (H) accounting principles and practices;
- (I) tax problems;
- (J) consulting services required; or
- (K) audit issues.

- (6) The taxation field of study includes subjects dealing with tax compliance and tax planning. Compliance covers tax return preparation and review and IRS examinations, ruling requests, and protests. Tax planning focuses on applying tax rules to prospective transactions and understanding the tax implications of unusual or complex transactions. Recognizing alternative tax treatments and advising the client on tax saving opportunities are also part of tax planning.

(c) In addition to courses sponsored by approved sponsors, the following may qualify as acceptable types of continuing education programs, provided the programs comply with the requirements set forth in Paragraph (a) of this Rule:

- (1) professional development programs of national and state accounting organizations;
- (2) technical sessions at meetings of national and state accounting organizations and their chapters;
- (3) courses taken at regionally accredited colleges and universities;
- (4) educational programs that are designed and intended for continuing professional education

activity conducted within an association of accounting firms; and

- (5) correspondence courses that are designed and intended for continuing professional education activity. A CPA may claim credit for a course offered by a non-approved sponsor provided that the course meets the requirements of 21 NCAC 8G .0403(d), .0404, and .0409. The CPA shall maintain documentation proving that the course met these standards.

(d) Notwithstanding Paragraph (a) of this Rule, CPE credit may be granted for teaching a CPE course or authoring a publication as long as the preparation to teach or write increased the CPA's professional competency and was in one of the six fields of study recognized by the Board and set forth in Paragraph (b) of this Rule.

(e) CPE credit shall not be granted for a self-study course if the material that the CPA must study to take the examination is not designed for CPE purposes. This includes periodicals, guides, magazines, subscription services, books, reference manuals and supplements which contain an examination to test the comprehension of the material read.

History Note: Authority G.S. 93-12(8b);

Eff. May 1, 1981;

Amended Eff. August 1, 1998; February 1, 1996; March 1, 1990; May 1, 1989.

SUBCHAPTER 8H - RECIPROCITY

.0001 RECIPROCAL CERTIFICATES

(a) Persons who meet the requirements of G.S. 93-12(6) may apply to the Board for a reciprocal certificate.

(b) The fee for a reciprocal certificate shall be the maximum amount allowed by statute.

(c) An applicant for a reciprocal certificate shall meet all of the current requirements imposed on an applicant under G.S. 93-12(5) or the following requirements, which the Board considers to be substantially equivalent to those requirements:

- (1) The applicant has the unrestricted privilege to use the CPA title and to practice public accountancy in any state or territory of the United States, or the District of Columbia.
- (2) The applicant:
 - (A) within ten years immediately preceding the filing date of the application, has had four years of experience in the field of accounting under the direct supervision of a CPA who held a valid license during the period of supervision in any state or territory of the United States or the District of Columbia; or
 - (B) has ten years of experience in the field of accounting, or ten years of experience teaching accounting as defined and calculated in 21 NCAC 8F .0409, or any combination of such experience earned within the 12 years immediately preceding the filing date of the application.

- (3) The applicant received a score of at least 75 on each part of the Uniform CPA Examination.
- (4) During the two years preceding the applicant's filing date for a reciprocal certificate, the applicant has completed 80 hours of CPE in courses meeting the requirements of 21 NCAC 8G .0401(a). However, applicants who received their initial CPA license within four years from the filing date of their application for a reciprocal certificate are exempt from this CPE requirement.

(d) An applicant for change in status, reissuance, or reinstatement of a reciprocal certificate that was inactive, forfeited, or retired more than 10 years before the date of reapplication, shall comply with all current requirements for a reciprocal certificate.

History Note: Authority G.S. 93-12(6); 93-12(7a); Eff. February 1, 1976;

Readopted Eff. September 26, 1977;

Amended Eff. August 1, 1998; September 1, 1992; March 1, 1990; May 1, 1989.

SUBCHAPTER 8J - RENEWALS AND REGISTRATIONS

.0005 RETIRED AND INACTIVE STATUS: CHANGE OF STATUS

(a) A CPA may apply to the Board for change of status to retired status or inactive status provided the CPA meets the description of the appropriate status as defined in 21 NCAC 8A .0301. Application for any status change may be made on the annual certificate renewal form or another form provided by the Board.

(b) A CPA who does not meet the description of inactive or retired as defined in 21 NCAC 8A .0301 may not be or remain on inactive or retired status.

(c) A CPA on retired status may change to active status by:

- (1) paying the certificate renewal fee for the license year in which the application for change of status is received; and
- (2) furnishing the Board with evidence of satisfactory completion of 40 hours of acceptable CPE courses during the 12 month period immediately preceding the application for change of status. Eight of the required hours must be credits derived from a course or examination in North Carolina accountancy statutes and rules (including the Code of Professional Ethics and Conduct contained therein) as set forth in 21 NCAC 8G .0401(a).

(d) A CPA on retired status may request change to inactive status by application to the Board.

(e) Any individual on inactive status may change to active status by complying with the requirements of 21 NCAC 8J .0006(c).

History Note: Legislative Objection Lodged Eff. January 31, 1983;

Authority G.S. 93-12(8); 93-12(8b);

Eff. December 1, 1982;

Curative Adopted Eff. January 25, 1983;

Amended Eff. August 1, 1998; April 1, 1994; March 1, 1990; May 1, 1989.

.0006 FORFEITURE OR INACTIVATION OF CERTIFICATE AND REISSUANCE OR REINSTATEMENT

(a) A certificate holder who determines that the certificate of qualification issued by the Board is no longer needed or desired may request inactive status by application to the Board.

(b) A person who is inactive or has forfeited a certificate is no longer a CPA and thus is not subject to the renewal fee or CPE requirements contained in these Rules.

(c) A person who desires to reinstate an inactive certificate or reissue a forfeited certificate shall make application and provide the following to the Board:

- (1) payment of the current certificate application fee;
- (2) three certificates of moral character and endorsements as to eligibility signed by CPAs holding valid certificates granted by any state or territory of the United States or the District of Columbia; and
- (3) evidence of satisfactory completion of the CPE requirement described in 21 NCAC 8J .0005(c)(2).

(d) The certificate may be reinstated or reissued if determined by the Board that the person meets the requirements as listed in Paragraph (c) of this Rule.

History Note: Authority G.S. 93-12(5); 93-12(8a); 93-12(8b);

Eff. October 1, 1984;

Amended Eff. August 1, 1998; February 1, 1996; April 1, 1994; May 1, 1989.

.0010 REGISTRATION AND SQR FEES

The annual registration fees shall be as follows:

- (1) For participation within SQR or for a request to be deemed in compliance with SQR, seventy-five dollars (\$75.00) plus five dollars (\$5.00) for each additional North Carolina office of the firm not excused from SQR by 21 NCAC 8M .0204;
- (2) For all professional corporations or professional limited liability companies, twenty-five dollars (\$25.00); and
- (3) For all non-incorporated firms which have offices both within and outside the state of North Carolina, whether sole proprietorships, partnerships, or registered limited liability partnerships, an amount equal to two thousand five hundred dollars (\$2,500.00) or the number of owners of the firm multiplied by ten dollars (\$10.00), whichever is less.

History Note: Authority G.S. 55B-11; 55B-12; 57C-1; 57C-2; 59-84.2; 93-12(7b); 93-12(8a); 93-12(8c);

Eff. April 1, 1991;

Amended Eff. August 1, 1998; April 1, 1994.

SUBCHAPTER 8M - STATE QUALITY REVIEW PROGRAM

SECTION .0100 - GENERAL SQR REQUIREMENTS

.0101 PURPOSE

The Board has adopted a state quality review (SQR) program to help CPA professionals in the public practice of accountancy maintain the quality of their audits, reviews, compilations, and agreed upon procedures.

History Note: Authority G.S. 93-12(8c);

Eff. April 1, 1991;

Amended Eff. August 1, 1998.

.0102 REGISTRATION REQUIREMENTS

(a) A firm which has not performed any audits, reviews, compilations, or agreed upon procedures during the 12 months prior to the year-end of the registration required by 21 NCAC 8J .0008(a) and (b) shall be exempt from the SQR program for the 12 months following the year-end but not from registering with the Board.

(b) Unless exempt under Paragraph (a) of this Rule, each ongoing firm shall complete an SQR within 24 months following the year-end of each registration unless it has completed an SQR within 24 months prior to the year-end.

(c) Unless exempt under Paragraph (a) of this Rule, a new firm shall complete its initial SQR within 24 months of the date of its initial registration pursuant to 21 NCAC 8J .0008(a).

(d) Every firm not exempt from SQR by Paragraph (a) of this Rule, after completion of a quality review, shall procure a statement signed by the review team captain, a statement signed by a member of the firm being reviewed, or letter of acceptance from an approved review program, stating that the firm has completed an SQR or one of the review programs listed or referred to in 21 NCAC 8M .0104. The firm shall submit the statement or documentation with the annual registration following the review as set forth in 21 NCAC 8J .0008(c)(2).

(e) For purposes of this Rule, an SQR is complete when the review team has delivered its report required by 21 NCAC 8M .0306 to the reviewed firm. Any quality review other than SQR is complete when the review team has delivered its final report to the reviewed firm. If mailed, a report shall be deemed delivered when postmarked.

History Note: Authority G.S. 93-12(7b); 93-12(8c);

Eff. April 1, 1991;

Amended Eff. August 1, 1998; February 1, 1996; April 1, 1994.

SECTION .0200 - DUTIES OF THE REVIEWED FIRM

.0201 SELECTION OF ENGAGEMENTS TO BE

REVIEWED

(a) Each office of the reviewed firm not excused under 21 NCAC 8M .0204 shall select a set of engagements to be submitted for review as required by the programs listed in 21 NCAC 8M .0104(b)(1) and (2).

(b) A set of engagements for review shall include the accountant's report and financial statements for one audit, one review, one compilation, and one agreed upon procedure, if these levels of service have been performed by the office within the 12 months preceding the year-end. If one or more levels of service have not been performed, the office shall select reports of the next highest level of service for reports required to be submitted. If, of the levels of service, only compilations have been performed by the office, the set of engagements shall include at least one compilation report on a complete set of financial statements which includes disclosures and one compilation report on a financial statement where management has elected to omit substantially all of the disclosures normally required by generally accepted accounting principles set forth in 21 NCAC 8N .0209, if both types of compilations are performed.

(c) The set of engagements, if possible, shall include clients operating in different industries. For example, submission of one governmental audit, one manufacturing review and one contractor compilation would satisfy this requirement.

(d) If a firm to be reviewed does a governmental audit, at least one shall be included in the set of engagements.

(e) An office of the reviewed firm not participating in the programs listed in 21 NCAC 8M .0104(b)(1) and (2) shall select a set of engagements to be submitted for review as required by the applicable AICPA Peer Review Program.

History Note: Authority G.S. 93-12(8c);

Eff. April 1, 1991;

Amended Eff. August 1, 1998; April 1, 1994.

.0204 CERTAIN OFFICES EXCUSED

The following offices of participating firms are not required to participate in the SQR program:

- (1) offices which are not North Carolina offices, and which have not performed any audits, reviews, compilations, or agreed upon procedures for clients in North Carolina; and
- (2) North Carolina offices which have not performed any audits, reviews, compilations, or agreed upon procedures for the 12 months prior to the year-end set forth in 21 NCAC 8J .0008.

History Note: Authority G.S. 93-12(8c);

Eff. April 1, 1991;

Amended Eff. August 1, 1998.

CHAPTER 12 - LICENSING BOARD FOR GENERAL CONTRACTORS

SECTION .0200 - LICENSING REQUIREMENTS

.0204 ELIGIBILITY

(a) Limited License. The applicant for such a license must:

- (1) Be entitled to be admitted to the examination given by the Board in light of the requirements set out in G.S. 87-10 and Section .0400 of this Chapter;
- (2) Be financially stable to the extent that the total current assets of the applicant or the firm or corporation he represents exceed the total current liabilities by at least twelve thousand five hundred dollars (\$12,500.00);
- (3) Successfully complete 70 percent of each part of the examination given the applicant by the Board dealing with the specified contracting classification chosen by the applicant.

(b) Intermediate License. The applicant for such a license must:

- (1) Be entitled to be admitted to the examination given by the Board in light of the requirements set out in G.S. 87-10 and Section .0400 of this Chapter;
- (2) Be financially stable to the extent that the total current assets of the applicant or the firm or corporation he represents exceed the total current liabilities by at least fifty thousand dollars (\$50,000.00) as reflected in an audited financial statement prepared by a certified public accountant;
- (3) Successfully complete 70 percent of each part of the examination given the applicant by the Board dealing with the specified contracting classification chosen by the applicant.

(c) Unlimited License. The applicant for such a license must:

- (1) Be entitled to be admitted to the examination given by the Board in light of the requirements set out in G.S. 87-10 and Section .0400 of this Chapter;
- (2) Be financially stable to the extent that the total current assets of the applicant or the firm or corporation he represents exceed the total current liabilities by at least one hundred thousand dollars (\$100,000.00) as reflected in an audited financial statement prepared by a certified public accountant;
- (3) Successfully complete 70 percent of each part of the examination given the applicant by the Board dealing with the specified contracting classification chosen by the applicant.

(d) Should the financial statement submitted by the applicant fail to demonstrate the required level of working capital, the applicant shall obtain a surety bond from a surety authorized to transact surety business in North Carolina pursuant to G.S. 58 Article 7, 16, 21, or 22. The surety shall provide proof that it maintains a rating from A.M. Best, or its successor rating organization, of either Superior (A+ or A-) or Excellent (A or A-). The bond shall be continuous in form and shall be maintained in effect for as long as the applicant maintains a license to practice general contracting in North Carolina or until the applicant demonstrates the required level of working capital. The application form and subsequent

annual license renewal forms shall require proof of a surety bond meeting the requirements of this Rule. The applicant shall maintain the bond in the amount of fifty thousand dollars (\$50,000.00) for a limited license, two hundred fifty thousand dollars (\$250,000.00) for an intermediate license, and five hundred thousand dollars (\$500,000.00) for an unlimited license. The bond shall be for the benefit of any person who is damaged by an act or omission of the applicant constituting breach of a construction contract or breach of a contract for the furnishing of labor, materials, or professional services to construction undertaken by the applicant, or by an unlawful act or omission of the applicant in the performance of a construction contract. The bond required by this Rule shall be in addition to and not in lieu of any other bond required of the applicant by law, regulation, or any party to a contract with the applicant. Should the surety cancel the bond, the surety and the applicant both shall notify the Board immediately in writing. If the applicant fails to provide written proof of financial responsibility in compliance with this Rule within 30 days of the bond's cancellation, then the applicant's license shall be suspended until written proof of compliance is provided. After a suspension of two years, the applicant shall fulfill all requirements of a new applicant for licensure. The practice of general contracting by an applicant whose license has been suspended pursuant to this Rule will subject the applicant to additional disciplinary action by the Board.

(e) Reciprocity. If an applicant is licensed as a general contractor in another state, the Board, in its discretion, need not require the applicant to successfully complete the written examination as provided by G.S.87-15.1. However, the applicant must comply with all other requirements of these rules to be eligible to be licensed in North Carolina as a general contractor.

(f) Accounting and reporting standards. Working capital, balance sheet with current and fixed assets, current and long term liabilities, and other financial terminologies used herein shall be construed in accordance with those standards referred to as "generally accepted accounting principles" as promulgated by the Financial Accounting Standards Board, the American Institute of Certified Public Accountants, and, if applicable, through pronouncements of the Governmental Accounting Standards Board, or their predecessor organizations. An audited financial statement, an unqualified opinion, and other financial reporting terminologies used herein shall be construed in accordance with those standards referred to as "generally accepted auditing standards" as promulgated by the American Institute of Certified Public Accountants through pronouncements of the Auditing Standards Board.

*History Note: Authority G.S. 87-1; 87-10;
Filed as a Temporary Amendment Eff. June 28, 1989 for a period of 155 days to expire on December 1, 1989;
Eff. February 1, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. January 1, 1983;
ARRC Objection March 19, 1987;
Amended Eff. August 1, 1998; December 1, 1989; May 1,*

1989; August 1, 1987.

CHAPTER 14 - BOARD OF COSMETIC ART EXAMINERS

SUBCHAPTER 14H - SANITATION

.0005 SANITARY RATINGS AND POSTING OF RATINGS

(a) The sanitary rating of a beauty establishment shall be based on a system of grading outlined in this Subchapter. Based on the grading, all establishments will be rated in the following manner:

- (1) all establishments receiving a rating of at least 90 percent or more, shall be awarded a grade A;
- (2) all establishments receiving a rating of at least 80 percent, and less than 90 percent, shall be awarded grade B.

(b) Every beauty establishment shall be given a sanitary rating. A cosmetic art school may be graded four times a year, and a cosmetic art salon may be graded once a year.

(c) The sanitary rating given to a beauty establishment shall be posted in a conspicuous place at all times.

(d) No beauty establishment shall be permitted to operate without first having obtained a sanitary rating card with a grade of not less than 80 percent.

(e) Cosmetic art inspectors shall give each beauty establishment a new sanitary rating card each year.

(f) Violation of any sanitary rules, or the operation of a beauty establishment which fails to receive a sanitary rating of at least 80 percent (grade B) shall be sufficient cause for revoking or suspending the letter of approval or permit.

(g) A re-inspection for the purpose of raising the sanitary rating of a beauty establishment shall not be given within 30 days of the last inspection, unless the rating at the last inspection was less than 80 percent.

History Note: Authority G.S. 88-23; 88-30;

Eff. February 1, 1976;

Amended Eff. August 1, 1998; June 1, 1994; April 1, 1991; January 1, 1989.

SUBCHAPTER 14J - COSMETOLOGY CURRICULUM

SECTION .0500 - CREDIT FOR COSMETOLOGY STUDY OUTSIDE OF NORTH CAROLINA

.0501 APPROVAL OF CREDIT FOR COSMETOLOGY INSTRUCTION/ ANOTHER STATE

(a) An applicant may receive credit for instruction taken in another state if the conditions set forth in this Rule are met.

(b) The applicant's record shall be certified by the state agency or department that issues licenses to practice in the cosmetic arts. If the agency or department does not maintain any student records or if the state does not give license to practice in the cosmetic arts, then the records may be certified

by any state department or state agency that does maintain such records and is willing to certify their accuracy. If no state department or board will certify the accuracy of the student's records, then this Board shall review the student's records on a case-by-case basis.

(c) If the requirements of Paragraph (b) of this Rule are met, then the Board shall give credit for hours of course work and for mannequin and live model performances to the extent certified, up to the amount of credit that the student would receive for instruction in a school licensed by the Board. If the certification includes only total hours and does not specify what performances have been completed, this Board will not give any credit for performances completed as part of the out-of-state instruction.

History Note: Authority G.S. 88-12; 88-19;

Eff. March 2, 1992;

Amended Eff. August 1, 1998; June 1, 1994.

SUBCHAPTER 14K - MANICURIST CURRICULUM

.0003 EQUIPMENT AND INSTRUMENTS

(a) A manicurist school shall be equipped with the following minimum equipment:

- (1) two handwashing sinks, separate from restrooms, located in or adjacent to the clinic area.
- (2) enough chairs so that each patron has a place to sit in the clinic area.
- (3) 10 work tables with lights in the clinic area for every 20 students.
- (4) pedicure chair and basin.
- (5) one wet and one dry sterilizer for each work table.
- (6) a covered waste container located in the clinic area, and
- (7) a covered container for soiled or disposable towels located in the clinic area, and

(b) Each student shall be supplied with:

- (1) a manicurist bowl,
- (2) nail brushes,
- (3) a tray for manicuring supplies,
- (4) one mannequin hand,
- (5) a manicuring kit containing proper implements for manicuring and pedicuring, and
- (6) implements for artificial nails, nail wraps and tipping.

History Note: Authority G.S. 88-23; 88-30;

Eff. February 1, 1976;

Amended Eff. August 1, 1998.

SUBCHAPTER 14N - EXAMINATIONS

SECTION .0100 - GENERAL PROVISIONS

.0102 INITIAL APPLICATIONS AND FEES

(a) All applications for examination must be on a form provided by the Board.

(b) If special arrangements are required, the initial

application to take an examination must include, an application for special arrangements pursuant to 21 NCAC 14N .0107.

(c) The application must be filed with the Board and accompanied by the applicable examination fee. If the application is not signed or is inadequately completed, or the proper supporting documentation is not enclosed, or the applicable fee is not paid, the application shall be deemed incomplete and returned.

(d) If the examination fee is paid by check or money order, the check or money order shall be made payable to the "Board of Cosmetic Art Examiners".

(e) If at all possible, the Board shall schedule candidates whose properly completed applications are received by the 10th of one month to take the examination during the following month. The Board shall assign the candidate to the location nearest to the candidate that is available for that month.

History Note: Authority G.S. 88-10(2); 88-12(2); 88-16; 88-17; 88-21(a)(16); 88-23; 88-30(4);

Eff. June 1, 1992;

Amended Eff. August 1, 1998.

.0107 SPECIAL ARRANGEMENTS FOR DISABLED

(a) If a candidate has a disability which will require special arrangements to take an examination, the candidate shall request such arrangements with his or her application for examination. The request for special arrangements shall be in writing and shall set out in sufficient detail what special arrangements are needed. The Board shall make reasonable accommodations for candidates requesting assistance under this Section, including any assistance required by applicable provisions of the Federal Americans with Disabilities Act.

(b) If reading assistance, or a reader is required, the application for special arrangements shall also be accompanied by a letter from the candidate's cosmetic art school which documents the assistance the candidate required during classes there. In addition, the candidate shall submit a letter from a professional qualified to diagnose and document the disability.

(c) The application, accompanied by a letter from a professional qualified to diagnose shall document the disability.

(d) The candidate shall provide any special equipment or readers. A reader shall be 18 years of age or older.

(e) A reader shall not be:

- (1) currently or formerly licensed by this state or any state, nor have received or is currently receiving any training, in any branch of cosmetic art;
- (2) a current or former owner or employee of any beauty establishment;
- (3) simultaneously a model for any candidate taking the examination.

(f) The application for permission to use a reader shall be made on a form provided by the Board.

History Note: Authority G.S. 88-10(2); 88-12(2); 88-16;

88-17; 88-21(a)(16); 88-23; 88-30(4);

Eff. June 1, 1992;

Amended Eff. August 1, 1998; January 1, 1996.

.0113 RE-EXAMINATION

(a) If, upon application for re-examination, the applicant has taken and passed one section of an examination, he or she shall apply for re-examination only on the section of the examination which he or she did not pass.

(b) Applicants for re-examination must apply for re-examination in writing and pay the appropriate examination fee.

(c) Notwithstanding any other provision of these Rules, pursuant to G.S. 88-16(4), a cosmetology candidate or other candidate who has failed either section of the examination five times, is required to complete an additional 200 hours of study at an approved cosmetic art school before another application for re-examination may be accepted by the Board.

(d) Any candidate for the cosmetology teacher examination, or manicurist teacher examination, who fails the examination twice, may request an examination review. The candidate must complete no less than 200 hours in a teacher training course designed to address the candidate's deficiencies before taking the examination again.

(e) Upon written request by any candidate, the Board shall release a summary of the results of each category of the practical section of the most recent examination to the school in which the candidate is enrolled for the additional study, pursuant to G.S. 88-16(4) or Paragraph (d) of this Rule.

(f) A candidate for licensure as an apprentice cosmetologist who passes the examination with a score of 75 percent or more on both sections; and subsequently completes an additional 300 hours within one year of the examination date may be licensed as a cosmetologist under G.S. 88-12 without retaking the examination.

History Notes: Authority G.S. 88-10(2); 88-12(2); 88-16; 88-17; 88-21(a)(16); 88-23; 88-30(4);

Eff. June 1, 1992;

Amended Eff. August 1, 1998; June 1, 1993.

**CHAPTER 18 - BOARD OF EXAMINERS OF
ELECTRICAL CONTRACTORS**

**SUBCHAPTER 18B - BOARD'S RULES FOR THE
IMPLEMENTATION OF THE ELECTRICAL
CONTRACTING LICENSING ACT**

SECTION .0100 - GENERAL PROVISIONS

**.0107 PROCESSING FEE FOR SUBMITTAL OF
BAD CHECK**

(a) Any person, firm or corporation submitting to the Board a check which is subsequently returned to the Board because of insufficient funds in or no account at a bank shall be charged the maximum processing fee allowed by G.S. 25-3-506 for processing such check.

(b) Until such time as the payor of such bad check has

made the check good and paid the prescribed processing fee, the payor shall not be eligible to take an examination, review an examination, obtain a license or have a license renewed.

(c) Any license which has been issued based on the payment of a check which is subsequently returned to the Board for reasons stated herein shall be declared invalid until such time as the payor has made the check good and paid the prescribed processing fee.

(d) Payment to the Board for making good such bad check and for the prescribed processing fee may be made in the form

of cash, cashier's check or money order.

(e) All examination, examination review, license and license renewal applications provided by the Board shall contain information in a conspicuous place thereon clearly advising the applicant of the foregoing bad check processing fee.

History Note: Authority G.S. 25-3-506; 87-42;

Eff. October 1, 1988;

Amended Eff. May 1, 1998.

SECTION .0200 - EXAMINATIONS

.0209 FEES

(a) The combined application and examination fees for the regular qualifying examinations in the various license classifications are as follows:

APPLICATION AND EXAMINATION FEE SCHEDULE:REGULAR

CLASSIFICATION	APPLICATION FEE	EXAMINATION FEE	TOTAL COMBINED FEE
Limited	\$15.00	\$15.00	\$ 30.00
Intermediate	\$30.00	\$30.00	\$ 60.00
Unlimited	\$65.00	\$50.00	\$115.00
SP-SFD	\$15.00	\$15.00	\$ 30.00
Special Restricted	\$15.00	\$15.00	\$ 30.00

(b) The combined application and examination fees for a specially-arranged qualifying examination in the various license classifications are as follows:

APPLICATION AND EXAMINATION FEE SCHEDULE: SPECIALLY ARRANGED

CLASSIFICATION	APPLICATION FEE	EXAMINATION FEE	TOTAL COMBINED FEE
All Classifications	\$100.00	\$100.00	\$200.00

(c) The fee for a supervised review of a failed examination with the Board or staff assistance is ten dollars (\$10.00) for all classifications.

(d) The total combined application and examination fees for regular or specially-arranged examinations in all classifications and the fees for examination reviews may be in the form of cash, check or money order made payable to the Board and must accompany the respective applications when filed with the Board.

(e) Application and examination fees received with applications filed for qualifying examinations shall be retained by the Board unless:

- (1) an application is not duly filed as prescribed in Rule .0210 of this Section, in which case the combined application and examination fee shall be returned; or
- (2) the applicant does not take the examination during the examination period applied for and files with the Board a written request for a refund, setting out extenuating circumstances. The Board shall refund the application fee, the examination fee, or both, if it finds extenuating circumstances.

(f) Examination review fees are non-refundable unless the applicant does not take the review and files with the Board a written request for a refund, setting out extenuating circumstance. The Board shall refund the fee if it finds extenuating circumstances.

(g) Any fee retained by the Board shall not be creditable toward the payment of any future application of examination fee or the fee for an examination review.

(h) Extenuating circumstances for the purposes of Paragraphs (e)(2) and (f) of this Rule shall be the applicant's illness, bodily

injury or death, or death of the applicant's spouse, child, parent or sibling, or a breakdown of the applicant's transportation to the designated site of the examination or examination review.

History Note: Authority G.S. 87-42; 87-43.3; 87-43.4; 87-44;

Eff. October 1, 1988;

Amended Eff. May 1, 1998; July 1, 1989.

SECTION .0400 - LICENSING REQUIREMENTS

.0404 ANNUAL LICENSE FEES

(a) The annual license fees and license renewal fees for the various license classifications are as follows:

LICENSE FEE SCHEDULE

CLASSIFICATION	LICENSE FEE
Limited	\$ 30.00;
Intermediate	\$ 60.00;
Unlimited	\$115.00;
SP-SFD	\$ 30.00;
Special Restricted	\$ 30.00;

(b) License fees may be in the form of cash, check or any money order made payable to the Board and must accompany the applicant's license application or license renewal application when either is filed with the Board.

History Note: Authority G.S. 87-42; 87-44;

Eff. October 1, 1988;

Amended Eff. May 1, 1998; July 1, 1989.

SECTION .0800 - SPECIAL RESTRICTED LICENSES

.0802 ESTABLISHING A SPECIAL RESTRICTED CLASSIFICATION

(a) The Board shall establish a special restricted license classification pursuant to G.S. 87-43.3 when it finds that:

- (1) the licensees who hold regular electrical contracting licenses are not meeting the need for the proposed electrical work to be authorized by the special restricted license; and
- (2) establishing the special restricted license classification serves the public interest.

(b) The Board shall establish special restricted license classifications by rule-making conducted pursuant to the requirements of G.S. 150B, Article 2A.

History Note: Authority G.S. 87-42; 87-43.3;

Eff. October 1, 1988;

Amended Eff. May 1, 1998.

Code are hereby incorporated by reference, including subsequent amendments and editions, for contested cases for which the Board has authority to adopt rules under G.S. 150B-38(h). Provided, however, that if the case is conducted under G.S. 150B-40(b), the presiding officer shall have the powers and duties given to the Chief Administrative Law Judge or the presiding administrative law judge in Title 26, Chapter 3 of the North Carolina Administrative Code and that 26 NCAC 3 .0101(2), .0102(a)(2), .0103, .0126 and .0128 shall not apply. Copies of Title 26, Chapter 3 of the North Carolina Administrative Code are on file in the Board's office and may be obtained therefrom at the Board's actual cost of copying and mailing.

History Note: Authority G.S. 87-42; 87-47; 150B-21.6; 150B-38(h);

Eff. October 1, 1988;

Amended Eff. May 1, 1998.

SECTION .0900 - VIOLATIONS AND CONTESTED CASE HEARINGS

.0904 ADMINISTRATIVE HEARING PROCEDURES

The rules establishing procedures for contested cases adopted by the Office of Administrative Hearings as contained in Title 26, Chapter 3 of the North Carolina Administrative

CHAPTER 46 - BOARD OF PHARMACY

SECTION .1400 - HOSPITALS; OTHER HEALTH FACILITIES

.1414 DRUG DISTRIBUTION AND CONTROL

(a) MEDICATION ORDERS.

- (1) Medications shall be dispensed from a health care facility pharmacy only upon receipt of a medication order. A mechanism shall be in place to verify the

authenticity of the medication order. Oral orders shall be put in writing immediately and signed within the time frame established by regulatory agencies and health care facility policies and procedures.

- (2) All medication orders shall be received and reviewed by a pharmacist and, at a minimum, shall contain the:
 - (A) patient's name, location and other necessary identifying information such as history or medical records number;
 - (B) medication name, strength, dosage form, route of and directions for administration. In the absence of a facility policy on interpretation of routes of administration, the route of administration must be specified;
 - (C) date the order was written; and
 - (D) prescriber's signature (may include electronic signature or verification).
- (3) Medication orders for patients requiring continuous drug therapy shall be entered into a patient medication profile, either manual or automated. The medication profile shall, at a minimum, contain the:
 - (A) patient's name, location and important clinical data such as age, height, weight, sex, and allergies;
 - (B) medication name, strength, dosage form, route of and directions for administration;
 - (C) medication start date;
 - (D) medication discontinuance date; and
 - (E) identification of pharmacist responsible for or verifying technician entry of the medication order;
- (4) Abbreviations used in medication orders shall be agreed to, jointly adopted, and published by the medical, nursing, pharmacy, and medical records staff of the health care facility.
- (5) Medication orders shall be reviewed and discontinued or suspended, if appropriate, when the patient is transferred to the delivery room, operating room, or is admitted from another facility. A method to protect the patient from indefinite, open-ended drug orders must be provided. The prescriber shall be notified in a timely manner that the order shall be stopped before such action takes place by one or more of the following:
 - (A) the routine monitoring of patient's drug therapy by a pharmacist;
 - (B) a health care facility-approved, drug class-specific, automatic stop order policy covering those drug orders not specifying a number of doses or duration of therapy; or
 - (C) a health care facility-approved automatic cancellation of all drug orders after a predetermined time interval unless rewritten by the prescriber.
- (6) Health care facilities which credential practitioners' for prescribing privileges within the facility shall

provide the health care facility pharmacy with credentialing information annually or immediately upon discharge or when privileges are suspended or terminated.

(b) DEVICES. Devices shall be dispensed in accordance with Section .2600 of this Chapter.

(c) DISPENSING. In health care facilities with 24 hour pharmacy services, all dispensing shall be done by a pharmacist. In health care facilities without 24 hour pharmacy services, Rule .1413 shall apply in the absence of a pharmacist.

(d) LABELING.

- (1) All drugs dispensed from within a health care facility pharmacy shall be labeled and identified up to the point of administration;
- (2) Whenever a drug is added to a parenteral admixture, it shall be labeled with a distinctive supplementary label indicating the name and amount of the drug added, expiration date, and expiration time, if applicable. For admixtures prepared outside the pharmacy, the pharmacist-manager shall develop policies and procedures for preparation and labeling.

(e) PARENTERAL MEDICATIONS. The dispensing of parenteral medications shall be done in accordance with Section .2800 of this Chapter - Sterile Parenteral Pharmaceuticals.

(f) PATIENT CARE UNIT MEDICATION INVENTORIES. This Paragraph does not apply to nursing facilities, assisted living facilities, and adult care homes.

- (1) Non-controlled drugs may be stocked in quantities limited to not more than five dosage units per drug on a health care facility patient care unit when immediate availability is deemed essential to the patient's health and well-being. The pharmacist-manager shall develop an approved drug list for each health care facility location. Drugs shall be stored in a manner that prevents unauthorized access and shall only be administered to a patient of the health care facility pursuant to a medication order.
- (2) All controlled substances stocked within a health care facility that are not located within the facility's pharmacy or automated dispensing device must be accompanied by a disposition form issued from the pharmacy. This document shall at a minimum contain:
 - (A) the product name, strength, dosage form, and quantity supplied;
 - (B) the date transferred to the patient care unit by the pharmacy;
 - (C) the name of the pharmacy representative supplying, and the patient care unit representative receiving the drug;
 - (D) the date, time, and amount of the drug removed from the patient care unit stock for administration; and
 - (E) the patient name and identification of the

person acquiring the product.

- (3) Exceptions to this Paragraph shall be made for use of automated dispensing devices provided that these devices meet all applicable rules for controlled substances contained therein.
- (4) When a dose of a controlled substance has been prepared for a patient but not used (i.e., refused, order canceled, or contaminated), it may be destroyed at the patient care unit. The destruction must be witnessed by a health care provider, such as a pharmacist, registered nurse, or licensed practical nurse. Details of the event, along with the identification of the two who affected the destruction, shall be documented. If such record is separate from the disposition form, it shall be maintained uniformly with the corresponding disposition form.

(g) **ANCILLARY DRUG CABINET INVENTORIES.** (This Paragraph does not apply to nursing facilities, assisted living facilities, and adult care homes.) Drugs that are routinely prescribed by the medical staff in a health care facility shall be maintained in establishing and maintaining quantities limited to not more than five dosage units per drug as a supplementary inventory for use only when the pharmacy is closed. The pharmacist-manager shall, in connection with the appropriate committee of the health care facility, develop listings of those drugs to be included in such inventories. The pharmacist-manager shall, at a minimum, assure that:

- (1) access to such drug inventories is by locked cabinet(s) or other enclosure(s) constructed and secured to deny access to unauthorized persons;
- (2) only authorized personnel, as indicated by written policies and procedures, shall obtain access to the drug inventories;
- (3) only pre-packaged drugs are available therein, in amounts sufficient for immediate therapeutic requirements. Drugs shall be properly labeled, with drug name, strength, lot number and expiration date. Whenever access to such inventory is gained, a copy of the record of withdrawal and a copy of the written order for new drug orders shall be provided to the pharmacy. The record of withdrawal shall contain the following:
 - (A) the date of removal of the drug;
 - (B) the name, strength, dosage form, and quantity of drug removed;
 - (C) the name of the patient for whom the drug was ordered;
 - (D) the name or identification code of the authorized personnel removing the drug from inventory;
- (4) all drugs are reviewed no less often than quarterly to ensure their purity, potency, and integrity; and
- (5) written policies and procedures are established to implement the requirements of this Rule.

(h) **AUTOMATED DISPENSING OR DRUG SUPPLY DEVICES.** Automated Dispensing or Drug Supply Devices such as but not limited to Pyxis machines may be utilized in

health care facility pharmacies and where a pharmacy permit exists provided that the pharmacist-manager has developed procedures to assure safe and effective use of medications. Automated dispensing or drug supply devices may be used for maintaining patient care unit medication inventories or for a patient profile dispensing system. The pharmacist-manager shall, at a minimum, assure that:

- (1) only authorized personnel, as indicated by written policies and procedures, may obtain access to the drug inventories;
- (2) all drugs therein are reviewed no less than monthly;
- (3) A system of accountability must exist for all drugs contained therein; the purity, potency, and integrity of the drugs shall be preserved;
- (4) the device provides records required by this Section and other applicable laws and rules;
- (5) written policies and procedures are established to implement the requirements of this Rule; and
- (6) requirements for controlled substances security are met.

(i) **EMERGENCY KITS.** (This Paragraph does not apply to adult care homes or assisted living facilities) Drugs and devices may be provided in emergency kits for use by authorized personnel provided that:

- (1) the pharmacist-manager, or designee, and the medical staff of the health care facility jointly determine the drugs and devices, by identity and quantity, to be included in the kit. Drugs and devices included in the kit shall be limited to those for emergency use only and are not to be used for any other purpose. The pharmacist-manager shall, in conjunction with the medical staff of the health care facility, develop and implement written policies and procedures to ensure compliance with the provisions of this Section;
- (2) the emergency kit contains those drugs and devices which may be required to meet the immediate therapeutic needs of patients and which are not available from any other authorized source in sufficient time to prevent prolonged discomfort or risk of harm to patients;
- (3) the emergency kit shall be stored in a secure, readily available location under the supervision of the nursing staff and sealed with a non-reusable, easily removable seal to prevent unauthorized access, and to ensure a proper environment for preservation of the drugs and devices within them. Policies and procedures shall be established to ensure the integrity of the kit at all times;
- (4) the exterior of the emergency kit shall be labeled so as to clearly and unmistakably indicate that it is an emergency drug kit and is for use in emergencies only. In addition, a listing of the drugs and devices contained therein, including name, strength, and quantity of each drug or device shall be attached. Each emergency kit shall be inspected by a pharmacist or his designee every 30 days (90 days for long-term care facilities) to check for expiration

dates and the integrity of the seal:

- (5) all drugs and devices contained within the emergency kit shall be labeled, if applicable, with, at a minimum, the name, strength, lot number, manufacturer, and expiration date;
- (6) drugs and devices shall be removed from the emergency kit for administration to a patient only pursuant to a valid physician's order, by personnel authorized by the facility;
- (7) whenever an emergency kit is opened, the pharmacy shall be notified. The pharmacist-manager or designee shall re-stock, re-seal, and return the kit to the unit within a reasonable length of time in order to prevent risk of harm to patients. The emergency drug kits shall be checked by an authorized person in accordance with written policies and procedures of the health care facility. In the event the kit is opened in an unauthorized manner, the pharmacy and other personnel designated by the pharmacist-manager of the facility shall be notified; and
- (8) **CONTROLLED DRUG EMERGENCY KITS.** Emergency drugs that are controlled substances must be stored in compliance with 10 NCAC 45G .0410.

(j) **RECORDS**

- (1) The pharmacist-manager shall, in addition to the requirements for preserving prescription orders as set forth in G.S. 90-85.26, develop a system of daily accountability for medication compounding and dispensing that shall permit the identification of the responsible pharmacist. Readily retrievable records of accountability shall be maintained for at least 30 days. At a minimum, this system shall identify all personnel who perform these activities and the pharmacist responsible for:
 - (A) interpretation and appropriateness of new medication orders;
 - (B) profile entry of new medication orders;
 - (C) dispensing of new medication orders including stat doses;
 - (D) daily cart fills;
 - (E) intravenous admixtures;
 - (F) compounded medications; and
 - (G) periodically assessing the quality of pharmacy procedures for preparation and release of drugs and devices for replenishment of floor stock, ancillary drug supplies, and automated dispensing devices in locations outside the pharmacy.
- (2) Medication errors resulting from the administration of an incorrect medication or dose shall be documented and reported to the pharmacist-manager. Documentation shall include pertinent chronological information and appropriate health care facility forms including the identity of individual(s) responsible. These documents shall be archived in a readily retrievable manner, open for inspection, for a period of three years.
- (3) Upon notification of information that reasonably suggests that there is a probability a prescription drug or device dispensed from a location holding a permit has caused or contributed to the death of a patient (see 21 NCAC 46 .2502(k) **RESPONSIBILITY OF PHARMACIST-MANAGER**), the pharmacist-manager shall retain all documents, labels, vial, supplies, substances and internal investigative reports relating to the event. All such items shall be maintained by the health care facility, accessible to the pharmacist-manager, and open to the Board of Pharmacy.
- (4) The pharmacist-manager shall maintain records of ordering, receiving, dispensing or transfer of controlled substances. These records shall include, but are not limited to the following:
 - (A) Invoices or other such documents verifying the ordering and receipt of controlled substances;
 - (B) Perpetual inventories of controlled substances transferred to patient care units and other sites as allowed by this Rule (i.e., automated dispensing devices, emergency kits, etc.). These inventories shall record the transfer date; location transferred to; the identity of the drug; strength, dosage form, and quantity transferred; transferring pharmacist's name;
 - (C) Disposition records required by Paragraph (f) of this Rule;
 - (D) A record of controlled substances dispensed directly to the patient to include the patient's name; date dispensed; dispensing pharmacist's name; name, strength, dosage form, and quantity of the drug dispensed. The records shall also document drugs returned and credited; and
 - (E) A perpetual inventory shall be maintained on all controlled substances awaiting destruction or return to a vendor.
- (5) Automated systems may be used to collect and store information required by Subparagraph (j)(4) of this Rule provided such system allows for the immediate retrieval (via CRT display and hard-copy printout) of original medication order information and dispensing history consistent with criteria cited in 21 CFR .1306 and 10 NCAC 46 .2304.
- (6) With the exception of Subparagraph (j)(1) of this Rule, all records required by this Section shall be maintained for a period of three years. Such records shall be archived in a uniform manner, retrievable to the pharmacy within 48 hours, and open for review, copying, or seizure by a member or designated employee of the Board.

*History Note: Authority G.S. 90-85.6; 90-85.21; 90-85.32; 90-85.33;
Eff. May 1, 1997;*

Amended Eff. August 1, 1998.

SECTION .1800 - PRESCRIPTIONS

.1813 ELECTRONIC TRANSMISSION OF PRESCRIPTION ORDERS

(a) "Electronic transmission" means transmission of the digital representation of information by way of electronic equipment other than facsimile machine described in Rule .1807 of this Section.

(b) All prescription drug orders communicated by way of electronic transmission shall:

- (1) be transmitted directly to a pharmacist in a pharmacy of the patient's choice with no intervening person having access to the prescription drug order;
- (2) identify the transmitter's phone number for verbal confirmation, the time and date of transmission, and the identity of the pharmacy intended to receive the transmission;
- (3) be transmitted by an authorized practitioner or his designated agent and contain a digital signature unique to the practitioner; and
- (4) be deemed the original prescription drug order, provided it meets all requirements of federal and state laws and regulations.

(c) The prescribing practitioner may authorize his agent to electronically transmit a prescription drug order to a pharmacist in a pharmacy provided that the identity of the transmitting agent is included in the order.

(d) The pharmacist shall exercise professional judgment regarding the accuracy, validity, and authenticity of an electronically transmitted prescription drug order consistent with federal and state laws and regulations.

(e) All equipment for receipt of prescription drug orders by electronic transmission shall be maintained so as to ensure against unauthorized access.

(f) Prescriptions may be transferred electronically if all the requirements of Rule .1806 of this Section are met.

History Note: Authority G.S. 90-85.6; 90-85.32; Eff. August 1, 1998.

SECTION .2600 - DEVICES

.2611 MEDICAL EQUIPMENT

(a) Medical equipment suppliers shall demonstrate to the Board's satisfaction a working knowledge of the services provided and how they relate to each patient's goals.

(b) Medical equipment suppliers shall:

- (1) Document where appropriate, information from the physician or other medical personnel as to the patient's specific needs to be met by the equipment delivered as well as the effectiveness of the equipment in meeting those needs;
- (2) In consultation with the referring health professional(s), patient, patient's family and other primary care providers, delineate the appropriate

choices of commercially available equipment to meet the specified needs of the patient;

- (3) Participate in the measurement of the patient, utilizing appropriate instruments and techniques to assure the fit and function of the selected equipment;
- (4) Deliver, fit and adjust the prescribed equipment;
- (5) Instruct the patient or family in the safe and proper use and care of the equipment provided in compliance with Rule .2504;
- (6) Provide service and support for the equipment dispensed or delivered and, within 72 hours, provide a response to patient requests for repair service on equipment supplied;
- (7) Maintain liability insurance of at least one million dollars (\$1,000,000) worth of coverage;
- (8) Demonstrate that each item sold or rented has been checked, is free of defect, and operates within the manufacturers' specifications;
- (9) Refrain from modifying equipment to the extent that the modification might reasonably cause harm;
- (10) Maintain all electrical components so that they do not present a fire or shock hazard;
- (11) Ensure that all appropriate warning labels or labeling, including tags, are present on the equipment provided;
- (12) Maintain documentation demonstrating that a function and safety check of equipment was performed prior to set up;
- (13) Maintain an established protocol for cleaning and disinfecting equipment which addresses both aerobic and anaerobic pathogens including procedures to prevent cross-contamination; and
- (14) Clean and disinfect equipment according to manufacturers' specifications.

(c) Medical equipment suppliers shall implement a comprehensive preventative maintenance program for rental equipment which includes the following:

- (1) Procedures for problem reporting, tracking, recall, and resolution;
- (2) Performance of service as specified by the manufacturer and the documentation of such performance in the service records; and
- (3) Maintain documentation of repair and maintenance of equipment. The following information shall be documented in the repair log:
 - (A) Type of equipment;
 - (B) Manufacturer;
 - (C) Model;
 - (D) Serial number;
 - (E) Date of repair;
 - (F) Specific repair made; and
 - (G) Name of person or company performing the repair.

(d) In addition to Section .2500 of this Chapter providers of parenteral and enteral nutrition services shall comply with the following counseling requirements:

- (1) Utilize orientation checklists to review:

- (A) Instructions for use of the equipment;
- (B) Safety precautions;
- (C) Cleaning procedures;
- (D) Maintenance procedures; and
- (E) Return demonstrations on equipment delivered;
- (2) Instruct the patient about emergency and routine contact procedures;
- (3) Deliver and review with the patient written instruction materials to ensure that the patient receives adequate information to properly operate the equipment; and
- (4) A written plan of service shall be developed, implemented, and documented in the patient record. The plan of service shall include, but is not limited to, the assessment of the safety of the home environment, the caregiver or patient's ability to comply with the prescription, and the caregiver or patient's ability to operate and clean the equipment as instructed.

History Note: Authority G.S. 90-85.3(e), (11), (r); 90-85.6; 90-85.22;

Eff. May 1, 1997;

Amended Eff. August 1, 1998.

CHAPTER 48 - BOARD OF PHYSICAL THERAPY EXAMINERS

SUBCHAPTER 48A - ORGANIZATION

SECTION .0100 - TYPES OF LICENSES

.0103 MEMBERSHIP OF BOARD

(a) Selection of Board Members. Nominations for members of the Board shall be sought from licensees residing in North Carolina. The ballots that are distributed to each licensee in North Carolina shall list each nominee's place and location of employment and practice setting. The ballots shall be forwarded to the President of the North Carolina Physical Therapy Association.

(b) Decisions.

- (1) Decisions involving disciplinary proceedings will be reached by a majority of the Board Members present and eligible to participate in the disciplinary proceedings; provided that a quorum consists of five Board Members.
- (2) All other decisions of the Board will be reached by a majority of the Board.

History Note: Authority G.S. 90-270.25; 90-270.26;

Eff. February 1, 1976;

Readopted Eff. September 30, 1977;

Amended Eff. August 1, 1998; April 1, 1989; May 1, 1988; December 30, 1985; October 28, 1979.

.0105 DEFINITIONS

The following definitions and the definitions in G.S.

90-270.24 will apply throughout Chapter 48:

- (1) "Educational programs" means physical therapy and physical therapist assistant educational programs accredited by the Commission on Accreditation of Physical Therapy Education (CAPTE).
- (2) "Computer Based Testing" or "CBT" means the Federation approved National Physical Therapist and Physical Therapist Assistant Examinations administered by a testing agency approved by the Federation.
- (3) "Federation" means Federation of State Boards of Physical Therapy.
- (4) "Graduated" or "graduation" means the completion of all requirements, including clinical experience, from an accredited program for physical therapists or physical therapist assistants. If an educational program certifies that the degree is assured and will be conferred at a later date, an applicant will be considered to have been graduated.
- (5) Reserved.
- (6) Reserved.
- (7) Reserved.
- (8) "PT exam" means a Federation approved licensing examination for physical therapists.
- (9) Reserved.
- (10) "PTA exam" means a Federation approved licensing examination for physical therapist assistants.
- (11) Reserved.
- (12) Reserved.
- (13) Reserved.

History Note: Authority G.S. 90-270.24; 90-270.26; 90-270.31;

Eff. February 1, 1976;

Readopted Eff. September 30, 1977;

Amended Eff. August 1, 1998; November 1, 1991; October 1, 1989; April 1, 1989; December 30, 1985.

SUBCHAPTER 48C - SCOPE OF PHYSICAL THERAPY PRACTICE

SECTION .0400 - PHYSICAL THERAPY AIDES

.0401 DEFINITION

Whenever any person not licensed in accordance with the provisions of the physical therapy practice act aids in the provision of physical therapy services under the supervision of a licensed physical therapist or physical therapist assistant, that person meets the definition of a physical therapy aide found in G.S. 90-270.24(5).

History Note: Authority G.S. 90-270.24; 90-270.26;

Eff. August 1, 1998.

SUBCHAPTER 48D - EXAMINATIONS

SECTION .0100 - EXAMINATIONS

.0102 SCHEDULE AND LOCATION OF EXAMINATION

Examinations may be scheduled by the applicant throughout the year at sites designated by the testing agency recognized by the Federation.

History Note: Authority G.S. 90-270.26;

Eff. February 1, 1976;

Readopted Eff. September 30, 1977;

Amended Eff. August 1, 1998; December 30, 1985; October 28, 1979.

.0105 EXAMINATION SCORES

(a) **Passing Level.** For examinations administered by the Professional Examination Service or Assessment Systems, Inc. prior to July 1, 1993, the passing level for the PT exam and the PTA exam shall be 1.5 standard deviations below the national average for the raw score of the examination. The criterion-referenced passing point shall be equal to a scaled score of 600 based on a score range of 200 - 800 as adopted by the Federation of State Boards of Physical Therapy on February 2, 1993.

(b) **Transfer of Scores.** Scores will be released as follows:

- (1) To an individual who took the examination in North Carolina upon request and with no charge;
- (2) To licensing Boards in other states upon the request of the individual and the payment of the fee established in 21 NCAC 48F .0102(6); licensure information may be included with the score release;
- (3) To other persons or institutions upon the request of the individual.

(c) **Scores Related to Passing Level.** Scores released to the individual will include the North Carolina passing level for the examination.

History Note: Authority G.S. 90-270.26; 90-270.33;

Eff. February 1, 1976;

Readopted Eff. September 30, 1977;

Amended Eff. August 1, 1998; July 1, 1993; November 1, 1991; December 1, 1990; May 1, 1988.

.0112 COMPUTER EXAMINATION

The test will be a Computer Based Test (CBT) and will be administered by the National Testing Service recognized by the Federation.

History Note: Authority G.S. 90-270.26; 90-270.29; 90-270.30;

Eff. August 1, 1998.

SUBCHAPTER 48F - CERTIFICATES; FEES; INVESTIGATIONS; RECORD OF LICENSEES**SECTION .0100 - CERTIFICATES; FEES; INVESTIGATIONS; RECORD OF LICENSEES****.0102 FEES**

(a) The following fees are charged by the Board:

- (1) application for physical therapist licensure:
 - (A) by endorsement or examination taken in another state, one hundred dollars (\$100.00);
 - (B) by examination, one hundred dollars (\$100.00) plus cost of examination;
- (2) application for physical therapist assistant licensure:
 - (A) by endorsement or examination taken in another state, one hundred dollars (\$100.00);
 - (B) by examination, one hundred dollars (\$100.00) plus cost of examination;
- (3) renewal for all persons, forty dollars (\$40.00);
- (4) penalty for late renewal, twenty dollars (\$20.00) plus renewal fee;
- (5) revival of license lapsed less than five years, twenty-five dollars (\$25.00) plus renewal fee;
- (6) transfer of licensure information fee, including either the examination scores or licensure verification or both, fifteen dollars (\$15.00);
- (7) retake examination, thirty dollars (\$30.00) plus actual cost of examination;
- (8) certificate replacement or duplicate, fifteen dollars (\$15.00);
- (9) directory of licensees, five dollars (\$5.00);
- (10) computer print-out or labels of any portion of list of physical therapists, sixty dollars (\$60.00);
- (11) computer print-out or labels of any portion of list of physical therapist assistants, sixty dollars (\$60.00);
- (12) processing fee for returned checks, maximum allowed by law.

(b) The application fee is not refundable. The Board shall consider written requests for a refund of other fees based on personal or economic hardship.

(c) A certified check, money order or cash is required for payment of application fees listed in Paragraphs (a)(1)(A), (B), (C), (D), and (2)(A), (B), (C), and (D) of this Rule.

History Note: Authority G.S. 25-3-512; 90-270.33;

Eff. February 1, 1976;

Readopted Eff. September 30, 1977;

Amended Eff. August 1, 1998; October 1, 1995; October 1, 1994; November 1, 1991; August 1, 1991.

SUBCHAPTER 48G - RETENTION OF LICENSE**SECTION .0200 - LAPSED LICENSES****.0203 REVIVAL OF LAPSED LICENSE**

The following methods may be used to revive a license:

- (1) A license that has lapsed less than five years may be revived by payment of the revival of lapsed license fee and the current year's renewal fee and by completion of the revival form.
- (2) A license that has lapsed more than five years may be revived by completion of the application forms, and:
 - (a) passing the "PT exam" (if trained as a physical therapist) or the "PTA exam" (if

trained as a physical therapist assistant); or

- (b) satisfactorily compiling at least 500 hours within the period of one year in the following manner: between 50 and 200 class hours of course work (ie, refresher courses, continuing education, pertinent college courses) approved by the Board as designed to demonstrate proficiency in current physical therapy theory and practice and the remaining hours working as an aide under the supervision of a licensed physical therapist, providing the Board shall authorize the training under the supervision of a licensed physical therapist and the supervising physical therapist accounts for the clinical hours; or
- (c) endorsement of a current license in another state as provided by 21 NCAC 48B .0102.

History Note: Authority G.S. 90-270.26; 90-270.32; 90-270.33;

Eff. February 1, 1976;

Readopted Eff. September 30, 1977;

Amended Eff. August 1, 1998; August 1, 1991; October 1, 1989; April 1, 1989; May 1, 1988.

SECTION .0400 - PROBATION OR WARNING

.0404 NOTIFICATION AND HEARING

(a) Any licensee subject to being placed on probation or receiving a warning will be notified of the alleged acts or conduct warranting the intended action, and such licensee shall be given an opportunity for an informal meeting with the Board to show why the licensee should not be placed on probation or receive a warning. Provided, however, nothing herein shall limit a licensee's right to request a contested case hearing.

(b) Before a reprimand is issued to a licensee, the licensee may request an informal meeting with the Board to show why the licensee should not receive a reprimand.

History Note: Authority G.S. 90-270.26; 90-270.35; 90-270.36;

Eff. October 28, 1979;

Amended Eff. August 1, 1998; May 1, 1989.

SECTION .0600 - DISCIPLINARY ACTION

.0601 PROHIBITED ACTIONS

(a) Behaviors and activities which may result in disciplinary action by the Board pursuant to G.S. 90-270.36(1), (6), (7), (8) and (9) and G.S. 90-270.35(4) include, but are not limited to, the following:

- (1) recording false or misleading data, measurements or notes regarding a patient;
- (2) delegating responsibilities to a person when the licensee delegating knows or has reason to know that the competency of that person is impaired by

physical or psychological ailments, or by alcohol or other pharmacological agents, prescribed or not;

- (3) practicing or offering to practice beyond the scope permitted by law;
- (4) accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform;
- (5) performing, without adequate supervision, professional services which the licensee is authorized to perform only under the supervision of a licensed professional, except in an emergency situation where a person's life or health is in danger;
- (6) harassing, abusing, or intimidating a patient either physically or verbally;
- (7) failure to exercise supervision over persons who are authorized to practice only under the supervision of the licensed professional;
- (8) exercising undue influence on the patient, with respect to recommending unnecessary treatment, supplies, or equipment;
- (9) directly or indirectly offering, giving, soliciting, or receiving or agreeing to receive, any fee or other consideration to or from a third party for the referral of a client;
- (10) failure to file a report, filing a false report or failure to respond to an inquiry within 30 days, required by law or by the Board, or impeding or obstructing such filing or inducing another person to do so;
- (11) revealing identifiable data, or information obtained in a professional capacity, without prior consent of the patient, except as authorized or required by law;
- (12) guaranteeing that a patient will benefit from the performance of professional services;
- (13) altering a license or renewal card by changing any other information appearing thereon;
- (14) using a license or renewal card which has been altered;
- (15) permitting or allowing another person to use his or her license or renewal card for the practice of physical therapy;
- (16) delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such a person is not qualified by training, by experience, or by licensure to perform such responsibilities;
- (17) violating any term of probation, condition, or limitation imposed on the licensee by the Board;
- (18) kissing, fondling, touching or engaging in any activities, advances, or comments of a sexual nature with any person with whom the licensee interacts in practicing physical therapy;
- (19) billing or charging for services or treatment not performed;
- (20) making treatment recommendations or basing a patient's continued treatment on the extent of third party benefits instead of the patient's condition;

- (21) willfully or intentionally communicating false or misleading information regarding a patient;
- (22) harassing, abusing, or intimidating any person, either physically or verbally, in the presence of a patient;
- (23) using a form of a license or renewal card that was not issued by the Board or is not current.

(b) When a person licensed to practice physical therapy is also licensed in another jurisdiction and that other jurisdiction takes disciplinary action against the licensee, the North Carolina Board of Physical Therapy Examiners may summarily impose the same or lesser disciplinary action upon receipt of the other jurisdiction's actions. The licensee may request a hearing. At the hearing the issues shall be limited to:

- (1) whether the person against whom action was taken by the other jurisdiction and the North Carolina licensee are the same person;
- (2) whether the conduct found by the other jurisdiction also violates the North Carolina Physical Therapy Act; and
- (3) whether the sanction imposed by the other jurisdiction is lawful under North Carolina law.

(c) In accordance with G.S. 150B-3(c) a license may be summarily suspended if the public health, safety, or welfare requires emergency action. This determination is delegated to the Chairman or Executive Director of the Board pursuant to G.S. 90-270.26(8). Such a finding shall be incorporated with the order of the Board of Physical Therapy Examiners and the order shall be effective on the date specified in the order or on service of the certified copy of the order at the last known address of the licensee, whichever is later, and continues to be effective during the proceedings. Failure to receive the order because of refusal of service or unknown address does not invalidate the order. Proceedings shall be commenced promptly.

(d) When the Board receives a notice from a Clerk of Superior Court that the license of a physical therapist or a physical therapist assistant has been forfeited pursuant to G.S. 15A-1331A, the licensee shall be required to surrender the license to the Board immediately and not to engage in the practice of physical therapy during the period of forfeiture. Forfeiture under this section shall not limit in any way the Board's authority to take further disciplinary action against the licensee in accordance with the Board's rules.

History Note: Authority G.S. 15A-1331A; 90-270.24; 90-270.26; 90-270.35(4); 90-270.36; 150B-3;

Eff. October 1, 1995;

Amended Eff. August 1, 1998; February 1, 1996.

CHAPTER 56 - BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS

SECTION .0100 - ORGANIZATION OF BOARD

.0103 ORGANIZATION

(a) Secretary. The secretary elected by the Board has final authority and responsibility in the operation of the Board

office subject to policies and directives as established by the full Board or these rules. The secretary may assign to the executive secretary those day-to-day administrative and operational duties as are approved by majority vote of the full Board. Authorization by the secretary for the disbursement of funds by the executive secretary must be in writing and have the unanimous approval of the Board.

(b) Board Committees. The Board shall be organized into an engineering committee and a land surveying committee. The engineering committee shall consist of the four engineer members and one public member. The land surveying committee shall consist of the three land surveyor members and one public member. The Board chairperson shall appoint the chairperson of each committee and appoint the public member to each committee.

(c) Executive Secretary. The day-to-day operations of the Board office shall be the responsibility of the executive secretary under the direction of the secretary subject to policies and directives as established by the Board or these rules. The executive secretary may be authorized by the Board or the secretary to represent the Board before professional or governmental organizations when such representation serves to further and support the purposes of the Board and is made within the expressed policies of the Board or these Rules.

History Note: Authority G.S. 89C-4 through 89C-11;

Eff. February 1, 1976;

Readopted Eff. September 29, 1977;

Amended Eff. August 1, 1998; April 1, 1989; January 1, 1982.

SECTION .0400 - RECORDS AND REPORTS OF BOARD: RETENTION AND DISPOSITION

.0401 RECORDS OF BOARD PROCEEDINGS

Records of all proceedings of the Board such as rule-making proceedings, declaratory rulings and contested cases and all other permanent records are retained at the office of the Board and are not disposed of or may be transferred to the Department of Cultural Resources.

History Note: Authority G.S. 89C-10(a); 89C-12;

Eff. February 1, 1976;

Readopted Eff. September 29, 1977;

Amended Eff. August 1, 1998; April 1, 1989; January 1, 1982.

.0403 APPLICATION FILES

History Note: Authority G.S. 89C-10(a); 89C-12;

Eff. February 1, 1976;

Readopted Eff. September 29, 1977;

Amended Eff. May 1, 1994; April 1, 1989; January 1, 1982;

Repealed Eff. August 1, 1998.

SECTION .0500 - PROFESSIONAL ENGINEER

.0501 REQUIREMENT FOR LICENSING

(a) Education. The education of an applicant shall be considered in determining eligibility for licensing as a

Professional Engineer. The following terms used by the Board for the specific educational requirements to be eligible to be licensed as a Professional Engineer are defined by the Board as follows:

- (1) Engineering Curriculum of Four or more Years Approved by the Board is defined as a curriculum that has been accredited by the Accreditation Board for Engineering and Technology (ABET). This curriculum is incorporated by reference including subsequent amendments and editions. This material is available for inspection at the office of the North Carolina State Board of Registration for Professional Engineers and Land Surveyors, 3620 Six Forks Road, Suite 300, Raleigh, North Carolina 27609. Copies may be obtained at the Board office at a cost of five dollars (\$5.00) per copy.
- (2) Engineering or Related Science Curriculum of Four or more Years Other than Ones Approved by the Board is defined as a curriculum, although not accredited by ABET, of physics, math, chemistry and engineering technology which contains engineering or scientific principles.
- (3) Equivalent Education Satisfactory to the Board:
 - (A) A bachelor's degree in Engineering Technology shall be considered equivalent to an engineering or related science curriculum of four or more years other than one approved by the Board.
 - (B) An associate degree in an engineering related curriculum with an additional two years of progressive engineering experience shall be considered equivalent to an engineering or related science curriculum of four or more years other than one approved by the Board.
 - (C) A high school diploma with an additional four years of progressive engineering experience shall be considered equivalent to an engineering or related science curriculum of four or more years other than one approved by the Board.
 - (D) Foreign degrees may be considered as recommended by the National Council of Examiners for Engineering and Surveying (NCEES) in its publications; provided however, maximum equivalency granted shall be that of an engineering or related science curriculum of four or more years other than one approved by the Board. The NCEES publications are incorporated by reference including subsequent amendments and editions. This material is available for inspection at the office of The North Carolina State Board of Registration for Professional Engineers and Land Surveyors, 3620 Six Forks Road, Suite 300, Raleigh, North Carolina 27609. Copies may be obtained at the Board's office at a cost of five dollars (\$5.00) per copy.

(b) Experience:

- (1) General. The experience of an applicant shall be considered in determining whether an applicant is eligible to be licensed as a Professional Engineer.
- (2) Required Experience. In evaluating the work experience required the Board may consider the total experience record, and the progressive nature of the record. (Not less than half of required engineering experience shall be of a professional grade and character, and shall be performed under the responsible charge of a registered Professional Engineer.)
- (3) Definition. The terms "progressive engineering experience" or "progressive experience on engineering projects" mean that during the period of time in which an applicant has made a practical utilization of acquired knowledge, continuous improvement, growth and development have been shown in the utilization of that knowledge as revealed in the complexity and technical detail of the work product or work record. The applicant must show continuous assumption of greater individual responsibility for the work product over that period of time.
- (4) Specific Credit for Experience. In evaluating progressive engineering experience, the Board may give credit for experience in the following areas of work:
 - (A) Graduate schooling or research in an approved engineering curriculum - maximum two years;
 - (B) Progressive land surveying - maximum two years;
 - (C) Teaching of science or engineering subjects at the graduate level in an approved engineering curriculum - maximum two years.
- (5) Experience Not Considered:
 - (A) Experience obtained prior to graduation while receiving education for which credit is given toward registration, unless such experience is obtained in a co-op program in an engineering curriculum approved by the Board.
 - (B) Experience obtained in a foreign country unless performed under direct supervision of a Professional Engineer registered with a member Board of the National Council of Examiners for Engineering and Surveying (NCEES).

History Note: Authority G.S. 89C-10; 89C-13;

Eff. February 1, 1976;

Readopted Eff. September 29, 1977;

Amended Eff. August 1, 1998; November 2, 1992; April 1, 1989; January 1, 1982.

.0502 APPLICATION PROCEDURE: INDIVIDUAL

(a) General. A person desiring to become licensed as a Professional Engineer must make application to the Board on a form prescribed and furnished by the Board.

(b) Request. A request for an appropriate application form may be made at the Board address.

(c) Applicable Forms:

(1) Student Form. This form requires the applicant to set forth personal history, educational background, provide character references, and furnish a photograph for identification purposes. The form is for use by those graduating, or those having graduated, from an engineering curriculum approved by the Board as follows:

- (A) Students graduating in the same semester or quarter in which the fundamentals of engineering examination is administered.
- (B) Graduates with less than two years since graduation.

(2) Professional Engineer Form:

- (A) All persons, including comity applicants and graduates of an engineering curriculum approved by the Board with more than two years progressive engineering experience, shall apply for registration by using the Professional Engineer form. The submission of this form shall signify that the applicant seeks registration, and will result in seating for each examination required, when the applicant is so qualified. This form requires the applicant to set forth personal and educational background, engineering experience and character references. A passport-type photograph for identification purposes is required.
- (B) Persons who have previously completed the fundamentals examination by use of the Student Form shall submit the Professional Engineer Form to request registration when qualified to take the final eight-hour examination.

(3) Supplemental Form. Persons who initially applied for the fundamentals of engineering exam using the Professional Engineer form must supplement the initial application upon applying for the principles and practice examination. The supplemental form requires that engineering experience from the date of the initial application until the date of the supplemental application be listed. Five references shall be submitted which are current to within one year of the examination date.

(4) Reference Forms:

- (A) Persons applying to take the examination for fundamentals of engineering must submit to the Board names of three individuals who are familiar with the applicant's work, character and reputation. Persons applying to take the examination for principles and practices of engineering must submit to the

Board names of five individuals who are familiar with the applicant's work, character and reputation. Two of these individuals must be registered Professional Engineers.

(B) In addition to the applicant submitting names to the Board of individuals familiar with the applicant's work, character and reputation, those individuals listed shall submit to the Board their evaluations of the applicant on forms supplied them by the applicant. Such information is considered confidential and shall not be released by the Board.

(C) The reference form requires the individual evaluating the applicant to state the evaluating individual's profession, knowledge of the applicant and other information concerning the applicant's engineering experience, character and reputation.

(D) The reference forms shall be received by the applicant with the application. The reference forms shall then be distributed by the applicant to the persons listed on the application as references. The applicant shall see that the individuals listed as references return the reference forms to the Board prior to the filing deadline for the examination.

(d) Fees:

(1) Student Form. The examination fee for applicants applying for examination on the fundamentals of engineering using the student form is payable with the filing of the application. Once the applicant passes the examination on the fundamentals of engineering, the registration fee of one hundred dollars (\$100.00) and the examination fee for the principles and practice of engineering examination are payable with the applicant's subsequent application for registration as a Professional Engineer using the Professional Engineer form.

(2) Professional Engineer Form. The registration fee of one hundred dollars (\$100.00) and appropriate examination fee for applicants applying for the examination on the fundamentals of engineering or the principles and practice of engineering using the Professional Engineer form are payable with the filing of the application.

(3) Comity. The registration fee for applicants for comity registration is payable with the filing of the application in accordance with G.S. 89C-14.

(4) Examination. The examination fee for any applicant is payable with the filing of the application in accordance with G.S. 89C-14.

(e) The Board shall accept the records maintained by the National Council of Examiners for Engineering and Surveying (NCEES) as evidence of registration in another state.

History Note: Authority G.S. 89C-10; 89C-13; 89C-14;

Eff. February 1, 1976;

Readopted Eff. September 29, 1977;

Amended Eff. May 1, 1994; November 2, 1992; April 1, 1989;

December 1, 1984;

RRC Objection due to lack of Statutory Authority Eff. November 17, 1994;

Amended Eff. August 1, 1998; January 1, 1995.

.0503 EXAMINATIONS

(a) Fundamentals of Engineering. This eight-hour written examination is designed primarily to test the applicant's proficiency and knowledge of the fundamentals of engineering.

(b) Principles and Practice of Engineering. This eight-hour written examination is designed to test the applicant's proficiency and knowledge of engineering principles and practices.

(c) Examination Aids. Examinees may utilize examination aids as specified by the exam preparer.

(d) Preparation of Examination. The examinations in the fundamentals of engineering and in the principles and practice of engineering are national examinations promulgated by the National Council of Examiners for Engineering and Surveying (NCEES) of which the Board is a member.

(e) Examination Sequence. Before the applicant is permitted to be examined on the principles and practice of engineering, the applicant must pass the examination on the fundamentals of engineering, unless the applicant can evidence 20 years of progressive engineering experience and receives a waiver from the fundamentals of engineering exam by the Board. In no event is an applicant allowed to take both examinations at the same time or at the same scheduled examination date.

(f) Examination Filing Deadline. The applicant who wishes to take an examination must have the completed application (which includes all necessary references, transcripts, and verifications) in the Board office prior to August 1 for Fall examinations and January 2 for Spring examinations.

(g) Seating Notice. After approval of an application to take either the examination on the fundamentals of engineering or principles and practice, the applicant shall be sent a seating notice by the Board. This notice shall inform the applicant of the date, time and location of the examination and the seat number assigned.

(h) Unexcused Absences. After a seating notice has been issued for a scheduled examination by the Board, and the applicant fails to appear, that applicant's record will reflect "unexcused absence" unless the absence was for official jury duty or the applicant was not physically able to be present, as indicated by a doctor's certificate.

(i) Oral Interview. During the examination on the principles and practice of engineering, the applicant may be interviewed by Board members. The purpose of the interview is to augment the evidence submitted in an application with regard to education or experience.

(j) Re-Examination. A person who has failed an examination may apply to take the examination again at the

next regularly scheduled examination period by making written request and submitting the required exam fee. A person having a combined record of three failures or unexcused absences shall not be allowed to take that examination again until a written appeal is made to the Board and qualifications for examination are reviewed and reaffirmed by the Board. The applicant must demonstrate to the Board that actions have been taken to improve the applicant's chances for passing the exam.

History Note: Authority G.S. 89C-10; 89C-13 to 89C-15; Eff. February 1, 1976;

Readopted Eff. September 29, 1977;

Amended Eff. August 1, 1998; November 2, 1992; April 1, 1989; January 1, 1982.

.0505 EXPIRATIONS AND RENEWALS OF CERTIFICATES

(a) Professional Engineer Registration. An annual renewal fee of forty dollars (\$40.00) for certificates of registration for Professional Engineers shall be payable to the Board. The Board shall send to each registered Professional Engineer a form which requires the registrant to provide the Board with both the business and residential addresses. The completed form for renewal of certificate along with the required fee shall be forwarded to the Board.

(b) Engineer-In-Training Certificate. The Engineer-In-Training certificate does not expire and, therefore, does not have to be renewed.

History Note: Authority G.S. 89C-10; 89C-17;

Eff. February 1, 1976;

Readopted Eff. September 29, 1977;

Amended Eff. August 1, 1998; May 1, 1994; April 1, 1989; January 1, 1982.

SECTION .0600 - LAND SURVEYOR

.0601 REQUIREMENT FOR LICENSING

(a) Education. The following terms used by the Board for the specific education requirements to be eligible to be licensed as a Registered Land Surveyor are defined by the Board as follows:

- (1) B.S. in Surveying or Other Equivalent Curricula. These degrees must contain a minimum of 45 semester hours, or their quarter-hour equivalents, of subjects directly related to the practice of surveying. Of the 45 semester hours, a minimum of 12 semester hours of surveying fundamentals, 12 semester hours of applied surveying practice and 12 semester hours of advanced or theoretical surveying courses are required. The remainder of the required surveying courses may be elective-type courses directly related to surveying.
- (2) Associate Degree in Surveying Technology. This degree must contain a minimum of 30 quarter hours, or semester-hour equivalents, of subjects directly related to the practice of surveying.

Courses in surveying practices, subdivision design and planning, surface drainage and photogrammetry must be successfully completed.

(b) Experience:

- (1) Definition. As used in the North Carolina Engineering and Land Surveying Act the term "progressive practical surveying experience" means that during the period of time in which an applicant has made a practical utilization of the knowledge of the principles of geometry and trigonometry in determining the form, boundaries, position and extent of the earth's surface, continuous improvement, growth and development in the utilization of that knowledge have been shown. In addition, the applicant must show the continuous assumption of greater individual responsibility for the work product over that period of time.
 - (2) Experience Accepted. In order to have experience adequate to comply with the requirements of the law, the applicant's work experience must be concerned with land surveying and is normally gained while working under the responsible charge of a Registered Land Surveyor.
 - (3) Other Experience. Work done in the following areas requires evidence to the Board of its equivalency to land surveying:
 - (A) construction layout.
 - (B) engineering surveying.
 - (C) part-time surveying work.
- (c) Exhibits, Drawings, Plats:
- (1) Required Exhibit Before Fundamentals of Land Surveying Examination. The applicant must submit, along with the application, an actual plat or an example plat which discloses that the applicant is knowledgeable in the elements of good mapping practices.
 - (2) Required Exhibit Before Principles and Practices of Land Surveying Examination:
 - (A) General. The applicant must submit, along with the application, an actual plat of a boundary survey of an actual project which discloses that the applicant is knowledgeable of the contents of the Standards of Practice for Land Surveying in North Carolina (Section .1600) and also is able to apply this knowledge by preparing a plat in accordance with the various legal and professional requirements of land surveying.
 - (B) Physical Requirement. The map submitted must be a clean, clear, legible print of an original map in the file of a Registered Land Surveyor.
 - (3) Specific Requirements. The specific details that shall be evaluated are those applicable to the particular project as described in the Standards of Practice for Land Surveying in North Carolina (Section .1600) and as described in G.S. 47-30. In addition, the exhibit shall contain a statement that

the field work, calculation and mapping were performed by the applicant under the supervision of a Registered Land Surveyor, attested to by the Registered Land Surveyor.

- (4) Requirements for Comity Applicant. The map submitted by an applicant under comity may be a sample plat of a project or work performed in the state of registration which shall be evaluated in accordance with legal requirements of North Carolina.

History Note: Authority G.S. 47-30; 89C-10; 89C-13;

Eff. February 1, 1976;

Readopted Eff. September 29, 1977;

Amended Eff. August 1, 1998; November 2, 1992; April 1, 1989; December 1, 1984; January 1, 1982.

.0602 APPLICATION PROCEDURE: INDIVIDUAL

(a) General. A person desiring to become a Registered Land Surveyor must make application to the Board on a form prescribed and furnished by the Board.

(b) Request. A request for the application form may be made at the Board address.

(c) Application Form. All persons applying to be licensed as a Registered Land Surveyor shall apply using the standard application form. This form requires the applicant to set forth personal background, plus educational background, land surveying experience, and references. A passport-type photograph for identification purposes is required also.

(d) Supplemental Form. Persons who initially applied for registration as a land surveyor, but were not eligible initially to be admitted to the examination for principles and practice of land surveying, must supplement their initial applications upon ultimately applying for the second examination. The applicant must supplement the initial application by using the supplemental form, which requires the listing of land surveying experience from the date of the initial application to the date of the supplemental application. Five references shall be submitted which are current to within one year of the examination date.

(e) Reference Forms:

- (1) Persons applying to take the examination for the fundamentals of land surveying or the examination for principles and practice must submit to the Board names of individuals who are familiar with the applicant's work, character and reputation. The names are submitted by the applicant on the application form.
- (2) Persons applying for the fundamentals of land surveying examination must submit three references, one of which must be a Registered Land Surveyor. Persons applying for the principles and practice examination must submit five references, two of which must be Registered Land Surveyors.
- (3) In addition to the applicant submitting names to the Board of such individuals, those individuals shall submit to the Board their evaluations of the applicant on reference forms supplied them by the

applicant. Such information is considered confidential and shall not be released by the Board.

- (4) The reference form requires the individual evaluating the applicant to state the evaluating individual's profession, knowledge of the applicant and other information concerning the applicant's land surveying experience, character and reputation.
 - (5) The reference forms shall be received by the applicant along with the application for registration. The reference forms shall then be distributed by the applicant to the persons listed on the application as references. The applicant shall see that the individuals listed as references return the forms to the Board prior to the filing deadline for the examination applied for by the applicant.
- (f) Fees:
- (1) Regular. The registration fee of one hundred dollars (\$100.00) and appropriate examination fee for those applying for registration based upon examination, experience, character and exhibit are payable with the filing of the application.
 - (2) Comity. The registration fee of one hundred dollars (\$100.00) and appropriate examination fee for those applying for registration based upon comity are payable with the filing of the application.
 - (3) Examination. The examination fee for any applicant is payable with the filing of the application in accordance with G.S. 89C-14.

History Note: Authority G.S. 89C-10; 89C-13; 89C-14; Eff. February 1, 1976; Readopted Eff. September 29, 1977; Amended Eff. August 1, 1998; May 1, 1994; April 1, 1989; January 1, 1982.

.0603 EXAMINATIONS

(a) Fundamentals of Land Surveying. This eight-hour written examination is designed primarily to test the applicant's proficiency and knowledge of the fundamentals of land surveying.

(b) Principles and Practice of Land Surveying. This eight-hour written examination is designed to test the applicant's proficiency and knowledge of land surveying practices and procedures generally and specifically within North Carolina.

(c) Examination Aids. Examinees may utilize examination aids as specified by the national exam preparer.

(d) Preparation of Examination. The examination in the fundamentals of land surveying and six hours of the examination in the principles and practice of land surveying are national examinations promulgated by the National Council of Examiners for Engineering and Surveying (NCEES) of which the Board is a member. The two-hour North Carolina portion of the principles and practice of land surveying examination is prepared and graded by the Board.

(e) Examination Filing Deadline. The applicant who wishes to take an examination must have the completed application (which includes all necessary references,

transcripts, and verifications) in the Board office prior to August 1 for Fall examinations and January 2 for Spring examinations.

(f) Seating Notice. After approval of an application the applicant will receive a seating notice. This notice will inform the applicant of the date, time and location of the examination and the seat number assigned.

(g) Unexcused Absences. After a seating notice for a scheduled examination has been issued by the Board, and the applicant fails to appear, the applicant's record will reflect "unexcused absence" unless the absence was for official jury duty or the applicant was not physically able to be present, as indicated by a doctor's certificate.

(h) Oral Interview. During the examination on the principles and practice of land surveying, the applicant may be interviewed by Board members. The purpose of the interview is to augment the evidence submitted in an application with regard to education or experience.

(i) Re-Examination. A person who has failed an examination is allowed to apply to take the examination again at the next regularly scheduled examination period. A person having a combined record of three failures or unexcused absences will not be allowed to take that examination again until a written appeal is made to the Board and the qualifications for examination are reviewed and reaffirmed by the Board. The applicant must demonstrate to the Board that actions have been taken to improve the applicant's chances for passing the exam.

History Note: Authority G.S. 89C-10; 89C-15; Eff. February 1, 1976; Readopted Eff. September 29, 1977; Amended Eff. August 1, 1998; November 2, 1992; April 1, 1989; January 1, 1982.

SECTION .0700 - STANDARDS OF PROFESSIONAL CONDUCT

.0701 RULES OF PROFESSIONAL CONDUCT

(a) In order to safeguard the life, health, property and welfare of the public and to establish and maintain a high standard of integrity, skills, and practice in the profession of engineering and land surveying, the following rules of professional conduct are promulgated in accordance with G.S. 89C-20 and shall be binding upon every person holding a certificate of registration as a Professional Engineer or Registered Land Surveyor (registrant), and on all partnerships or corporations or other legal entities authorized to offer or perform engineering or land surveying services in this state. All persons registered under the provisions of Chapter 89C of the General Statutes are charged with having knowledge of the existence of the rules of professional conduct, and shall be deemed to be familiar with their several provisions and to understand them.

(b) The Professional Engineer and Registered Land Surveyor shall conduct the practice in order to protect the public health, safety and welfare. The registrant shall at all times recognize the primary

obligation to protect the public in the performance of the professional duties. If the registrant's engineering or land surveying judgment is overruled under circumstances where the safety, health and welfare of the public are endangered, the registrant shall inform the employer, the contractor and the appropriate regulatory agency of the possible consequences of the situation.

(c) The Professional Engineer and Registered Land Surveyor shall perform services only in areas of the registrant's competence and:

- (1) Shall undertake to perform engineering and land surveying assignments only when qualified by education or experience in the specific technical field of professional engineering or land surveying involved.
- (2) May accept an assignment requiring education or experience outside of the registrant's own field of competence, but only to the extent that the services are restricted to those phases of the project in which the registrant is qualified. All other phases of such project shall be performed by qualified associates, consultants, or employees.
- (3) Shall not affix the signature or seal to any engineering or land surveying plan or document dealing with subject matter for which the registrant lacks competence by virtue of education or experience, nor to any such plan or document not prepared under the registrant's direct supervisory control. Direct supervisory control (responsible charge) requires a registrant or employee to carry out all client contacts, provide internal and external financial control, oversee employee training, and exercise control and supervision over all job requirements to include research, planning, design, field supervision and work product review. A registrant shall not contract with a non-registered individual to provide these professional services. Research, such as title searches and soil testing, may be contracted to a non-registered individual, provided that individual is qualified or licensed to provide such service and provided the registrant reviews the work. The Professional Engineer and Registered Land Surveyor may affix the seal and signature to drawings and documents depicting the work of two or more professionals provided it is designated by a note under the seal the specific subject matter for which each is responsible.

(d) The Professional Engineer and Registered Land Surveyor shall issue public statements only in an objective and truthful manner and:

- (1) Shall be objective and truthful in all professional reports, statements or testimony. The registrant shall include all relevant and pertinent information in such reports, statements or testimony.
- (2) When serving as an expert or technical witness before any court, commission, or other tribunal, shall express an opinion only when it is founded upon adequate knowledge of the facts in issue,

upon a background of technical competence in the subject matter, and upon honest conviction of the accuracy and propriety of the registrant's testimony.

- (3) Shall issue no statements, criticisms, or arguments on engineering or land surveying matters connected with public policy which are inspired or paid for by an interested party, or parties, unless the registrant has prefaced the comment by explicitly identifying the registrant's name, by disclosing the identities of the party or parties on whose behalf the registrant is speaking, and by revealing the existence of any pecuniary interest the registrant may have in the instant matters.
- (4) Shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice or employment of another engineer or land surveyor, nor indiscriminately criticize another engineer or land surveyor's work in public. If the registrant believes that another engineer or land surveyor is guilty of misconduct or illegal practice, such information shall be presented to the North Carolina State Board of Registration.

(e) The Professional Engineer and Registered Land Surveyor shall avoid conflicts of interest and:

- (1) Shall promptly inform the employer or client of any business association, interests, or circumstances which could influence judgment or the quality of services.
- (2) Shall not accept compensation, financial or otherwise, from more than one party for services on the same project, or for services pertaining to the same project, unless the circumstances are fully disclosed to, and agreed to, by all interested parties.
- (3) Shall not solicit or accept financial or other valuable considerations from material or equipment suppliers for specifying their products.
- (4) Shall not solicit or accept gratuities, directly or indirectly, from contractors, their agents, or other parties dealing with the client or employer in connection with work for which the registrant is responsible.
- (5) When in public service as a member, advisor, or employee of a governmental body or department, shall not participate in considerations or actions with respect to services provided by the registrant or the registrant's organization in private engineering and land surveying practices.
- (6) Shall not solicit or accept an engineering or land surveying contract from a governmental body on which a principal or officer of the registrant's organization serves as a member.
- (7) Shall not attempt to supplant another engineer or land surveyor in a particular employment after becoming aware that the other has been selected for the employment.

(f) The Professional Engineer and Registered Land Surveyor shall solicit or accept work only on the basis of qualifications and:

- (1) Shall not offer to pay, either directly or indirectly, any commission, political contribution, gift, or other consideration in order to secure work, exclusive of securing salaried positions through employment agencies.
 - (2) Shall compete for employment on the basis of professional qualification and competence to perform the work. The registrant shall not solicit or submit proposals for professional services containing a false, fraudulent, misleading, deceptive or unfair statement or claim regarding the cost, quality or extent of services to be rendered.
 - (3) Shall not falsify or permit misrepresentation of academic or professional qualifications. The registrant shall not misrepresent degree of responsibility in or for the subject matter of prior assignments. Brochures or other presentations incident to the solicitation of employment shall not misrepresent pertinent facts concerning employers, employees, associates, joint ventures, or past accomplishments with the intent and purpose of enhancing qualifications and work.
- (g) The Professional Engineer and Registered Land Surveyor shall perform services in an ethical and lawful manner and:
- (1) Shall not knowingly associate with or permit the use of the registrant's name or firm name in a business venture by any person or firm which the registrant knows, or has reason to believe, is engaging in business or professional practices of a fraudulent or dishonest nature.
 - (2) If the registrant has knowledge or reason to believe that another person or firm may be in violation of any of these provisions or of the North Carolina Engineering and Land Surveying Act, shall present such information to the Board in writing and shall cooperate with the Board in furnishing such further information or assistance as may be required by the Board. The registrant shall timely respond to all inquiries and correspondence from the Board and shall timely claim correspondence from the U.S. Postal Service, or other delivery service, sent to the registrant from the Board.
- (h) A Professional Engineer or Registered Land Surveyor whose professional registration is revoked or suspended by another jurisdiction, shall be subject to discipline by the Board if the registrant's action violates Chapter 89C of the North Carolina General Statutes or these rules.

History Note: Authority G.S. 89C-17; 89C-20; Eff. February 1, 1976; Readopted Eff. September 29, 1977; Amended Eff. August 1, 1998; November 2, 1992; April 1, 1989; January 1, 1982; March 1, 1979.

SECTION .0900 - BUSINESS ORGANIZATIONS: GENERAL

.0901 OFFICES

(a) Professional Engineering Services. Every firm, partnership, corporation or limited liability company which performs or offers to perform engineering services in the State of North Carolina shall have a resident registered Professional Engineer in responsible charge in each separate office in which professional engineering services are performed or offered to be performed.

(b) Land Surveying Services. Every firm, partnership, corporation or limited liability company which performs or offers to perform land surveying services in the State of North Carolina shall have a resident Registered Land Surveyor in responsible charge in each separate office in which land surveying services are performed or offered to be performed.

(c) Resident. A resident registered Professional Engineer or Registered Land Surveyor as used in this Rule, means a licensee who spends a majority of the licensee's normal working time in said place of business. Such time shall not be less than a majority of the operating hours of the business. A registered Professional Engineer or Registered Land Surveyor shall be the resident licensee at only one place of business at one time.

(d) No firm, partnership, corporation or limited liability company shall practice, or offer to practice, or market either land surveying or engineering unless there is a registered resident for that service in responsible charge at that said place of business. Advertisements, signs, letterheads, business cards, directories, or any other form of representation shall avoid any reference to any service that cannot be provided under the responsible charge of a properly qualified resident professional.

History Note: Authority G.S. 57C-2.01; 89C-10; 89C-24; Eff. February 1, 1976; Readopted Eff. September 29, 1977; Amended Eff. August 1, 1998; May 1, 1994; January 1, 1992; April 1, 1989; January 1, 1982.

SECTION .1100 - SEAL

.1102 DESIGN

The standard design of the seal shall be two concentric circles in which North Carolina and the name of the registrant are placed within the outermost circle and in which the registration number of the registrant and either "Professional Engineer" or "Registered Land Surveyor," is placed within the innermost circle. The size shall be approximately 1 3/4 inches in diameter.

History Note: Authority G.S. 89C-10; 89C-16; Eff. February 1, 1976; Readopted Eff. September 29, 1977; Amended Eff. August 1, 1998; April 1, 1989; January 1, 1982.

.1103 STANDARD CERTIFICATION REQUIREMENTS

(a) Certification. The seal of a registrant on a map, drawing, plan, specification, plat, or report shall signify that

it is the final work of the registrant unless the work is stamped or clearly marked as "preliminary work" as follows:

- (1) "Preliminary - Do not use for construction".
- (2) "Progress Drawings - Do not use for construction".
- (3) "Preliminary Plat - Not for recordation, conveyances, or sales".
- (4) "Final Drawing - Not released for construction".
- (5) "Final Drawing - For Review Purposes Only".

(b) Certification of Final Drawings. Certification is not required for "preliminary work." All other drawings or maps shall conform to the following:

- (1) Certification is required on reproducible or original drawings.
- (2) The seal may be a rubber stamp, embossed seal, computer-generated seal, or other facsimile that becomes a permanent addition to a plan sheet or map.
- (3) The registrant's written signature must be placed over, or near, the seal on the original document. A facsimile signature is not acceptable.
- (4) The date of signing must be annotated on the original document.
- (5) All sheets of engineering and surveying drawings must be sealed.
- (6) The name and address of the registrant's firm shall be included on each sheet of engineering drawings. For surveys, the registrant's name and address shall be included on the first sheet of the survey or title sheet.

(c) Certification of Specifications and Reports. Certification is not required for "preliminary work." All other specifications and reports shall conform to the following:

- (1) Certification is required on original specifications.
- (2) The seal may be a rubber stamp, or other facsimile.
- (3) The registrant's written signature must be placed over, or near, the seal on the original document. A facsimile signature is not acceptable.
- (4) The date of signing must be annotated on the original document.
- (5) The title sheet of engineering specifications or other reports must be sealed and bear the name and address of the registrant's firm. The title sheet of any survey report or written description of property shall include the name and address of the Registered Land Surveyor.

(d) Electronically transmitted drawings. Drawings that are transmitted electronically to a client or a governmental agency shall have the computer-generated seal removed from the original file. The electronic media shall have the following inserted in lieu of the signature and date: This document originally issued and sealed by (name of sealer), (registration number), on (Date of sealing). This media shall not be considered a certified document.

History Note: Authority G.S. 89C-10; 89C-16; Eff. February 1, 1976; Readopted Eff. September 29, 1977; Amended Eff. August 1, 1998; February 1, 1996; May 1,

1994; April 1, 1989; December 1, 1984; January 1, 1982.

.1104 CERTIFICATION WITH TEMPORARY PERMIT

All plans, specifications, plats, and reports issued by a person holding temporary registration in North Carolina, and for use in North Carolina, shall be stamped with the registrant's seal from the state where permanently registered and in good standing. Directly beneath this seal, the registrant shall note the North Carolina Temporary Permit Number, written signature, and the date of signing. A facsimile signature is not acceptable.

History Note: Authority G.S. 89C-10; 89C-16; 89C-25;

Eff. February 1, 1976;

Readopted Eff. September 29, 1977;

Amended Eff. August 1, 1998; February 1, 1996; April 1, 1989; January 1, 1982.

.1106 CERTIFICATION OF STANDARD DESIGN PLANS

Standard design plans must initially be prepared and sealed by a Professional Engineer properly registered in the state of origin of such plans. Standard design plans may then be reviewed by a North Carolina Professional Engineer for code conformance, design adequacy, and site adaption for the specific application within North Carolina. The Professional Engineer who is registered in North Carolina assumes responsibility for such standard designs. Standard plans, which bear the seal of a Professional Engineer who is registered in another state, shall be sealed by the North Carolina resident Professional Engineer who is assuming responsibility. In addition to the seal, a statement shall be included as follows: "These plans have been properly examined by the undersigned. I have determined that they comply with existing local North Carolina codes, and have been properly site adapted for use in this area."

History Note: Authority G.S. 89C-10; 89C-16;

Eff. February 1, 1976;

Readopted Eff. September 29, 1977;

Amended Eff. August 1, 1998; April 1, 1989; December 1, 1984; January 1, 1982.

SECTION .1200 - RULE-MAKING PROCEDURES

.1201 PETITIONS

(a) Any person wishing to submit a petition requesting the adoption, amendment or repeal of a rule by the Board shall send the petition to the executive secretary at the Board's office in Raleigh, North Carolina.

(b) The petition shall contain the following information:

- (1) a draft of the proposed rule;
- (2) reason for proposal;
- (3) effect on existing rules;
- (4) any data supporting proposal;
- (5) effect of the proposed rule on existing practices in the area involved, including cost factors;

- (6) names of those most likely to be affected by the proposed rule, with addresses if reasonably known; and
 - (7) name and address of each petitioner.
- (c) A review committee made up of one member of the Board, the executive secretary and the legal counsel for the Board, on behalf of the Board, shall determine, based on a study of the facts stated in the petition, whether the public interest will be served by granting it. It shall consider all the contents of the submitted petition, plus any additional information it deems relevant.
- (d) The executive secretary, on behalf of the review committee, shall make a recommendation to the Board for the denial of the petition or the institution of rulemaking proceedings, as the case may be.
- (e) Within 120 days of submission of the petition, the Board shall render a final decision.
- (f) If the decision is to deny the petition, the executive secretary, on behalf of the Board, will notify the petitioner in writing, stating the reasons therefore. If the decision is to grant the petition, the Board shall publish notice of rulemaking proceedings.

History Note: Authority G.S. 89C-10; 150B-20; Eff. February 1, 1976; Readopted Eff. September 29, 1977; Amended Eff. August 1, 1998; April 1, 1989; January 1, 1982.

.1203 HEARINGS

- (a) Unless otherwise stated in a particular rulemaking notice, hearings before the Board shall be held in the Board office.
- (b) Presentations may not exceed 10 minutes unless, upon request, either before or at the hearing, the Board grants an extension of time, for a fuller explanation.
- (c) Upon receipt of a request to make an oral presentation the executive secretary shall acknowledge receipt of the request, and inform the person making the request of the imposition of any limitations deemed necessary to the end of a full and effective public hearing on the proposed rule.
- (d) Any person may file a written submission containing data, comments or arguments after publication of a rulemaking notice as allowed by G.S. 150B-21.2(f). Written submissions, except when otherwise stated in the particular rulemaking notice, shall be sent to the Board. Such submissions shall clearly state the proposed rule(s) to which the comments are addressed.
- (e) Upon receipt of such written comments, prompt acknowledgment shall be made by the Board.
- (f) The presiding officer at the hearing shall have complete control of the proceedings, including extensions of any time requirements, recognition of speakers, time allotments for presentations, direction of the flow of the discussion and the management of the hearing. The presiding officer, at all times, shall take care that each person participating in the hearing is given a fair opportunity to present views, data and comments.
- (g) A record of all rulemaking proceedings shall be

maintained at the Board's office.

History Note: Authority G.S. 89C-10; 150B-21.2; Eff. February 1, 1976; Readopted Eff. September 29, 1977; Amended Eff. August 1, 1998; April 1, 1989; January 1, 1982.

.1205 DECLARATORY RULINGS

- (a) Any person substantially affected by a statute administered or rule promulgated by the Board may request a declaratory ruling as to whether or how the statute or rule applies to a given factual situation or whether a particular agency rule is valid.
- (b) All requests for declaratory rulings shall be written and mailed to the Board.
- (c) All requests for a declaratory ruling must include the following information:
 - (1) name and address of petitioner;
 - (2) statute or rule to which petition relates;
 - (3) concise statement of the manner in which petitioner is aggrieved by the rule or statute or its potential application to petitioner;
 - (4) a statement of whether an oral hearing is desired, and if so, the reasons for such an oral hearing.
- (d) Whenever the Board believes for good cause that the issuance of a declaratory ruling is undesirable, it may refuse to do so. When good cause is deemed to exist, the Board shall notify the petitioner of its decision in writing stating reasons for the denial of a declaratory ruling.
- (e) Where a declaratory ruling is deemed appropriate, the Board shall issue the ruling within 60 days of receipt of the petition.
- (f) A declaratory ruling procedure may consist of written submissions, oral hearings, or such other procedure as may be appropriate in a particular case.

History Note: Authority G.S. 89C-10; 150B-4; Eff. February 1, 1976; Readopted Eff. September 29, 1977; Amended Eff. August 1, 1998.

SECTION .1400 - CONTESTED CASES

.1409 CONDUCT OF CONTESTED CASE

- (a) Failure to Appear:
 - (1) If a party served with notice requests a hearing within the time required and fails to appear without having notified the Board, and no continuance or adjournment is ordered, the party is considered to have waived the right to appear at the hearing and the Board may proceed with the hearing in the party's absence.
 - (2) If the absent party is the only party other than the Board, the Board may proceed with the hearing and make its decision in the party's absence.
 - (3) Continuances and adjournments shall be granted to a party only in compelling circumstances and for hardship noted.

- (4) If a hearing is conducted or a decision reached in the absence of a party, that party may petition the Board for a reopening of the case. Petitions will not be granted, except when petitioner can show that the reasons for the failure to appear were justifiable and that fairness requires reopening of the case. The decision made by the Board will be in writing. A copy will be sent to the petitioner and made a part of the record of the contested case.
- (b) Simplification of Issues. The parties to a contested case may agree in advance to simplify the hearing by eliminating issues to be contested at the hearing, accepting the validity of certain proposed evidence, accepting the findings in some other case with relevance to the case at hand, or agreeing to such other matters as may expedite the hearing.
- (c) Subpoenas:
- (1) The executive secretary shall issue subpoenas in the Board's name.
 - (2) Subpoenas requiring the attendance of witnesses, or those to produce documents, evidence, or things, will be issued by the executive secretary within five business days of the receipt of a request from a party to the case for such subpoena.
 - (3) Any person receiving a subpoena from the Board may object thereto by filing a written objection to the subpoena with the Board. Such objection must include a concise, but complete statement of reasons why the subpoena should be revoked or modified. These reasons may include lack of relevancy of the evidence requested, lack of particularity in the description of the evidence sought, or any other reasons sufficient in law for holding the subpoena invalid, such as that the evidence is privileged, that appearance or production would be so disruptive as to be unreasonable in light of the significance of the evidence sought, or other undue hardships.
 - (4) The objecting witness shall serve the objection on the party who requested the subpoena as soon as the objection is filed with the Board.
 - (5) The party requesting the subpoena, within five days, may file a written response to the objection. The response shall be served in like manner as the objection.
 - (6) After receipt of the objection and response thereto, if any, the Board shall issue a notice to the party who requested and the party challenging the subpoena, and may notify all other parties of an open hearing, to be scheduled as soon as practicable, at which time evidence and testimony may be presented limited to the questions raised by the objection and response, if any.
 - (7) Promptly after the close of such hearing, the Board will rule on the challenge and issue a written decision. A copy of this decision will be issued to all parties and made a part of the record.

History Note: Authority: G.S. 89C-10; 89C-21; 89C-22;

150B-38; 150B-39; 150B-40;

Eff. February 1, 1976;

Readopted Eff. September 29, 1977;

Amended Eff. August 1, 1998; April 1, 1989; December 1, 1984; January 1, 1982.

.1411 DEPOSITIONS

Depositions shall be taken in accordance with the North Carolina Rules of Civil Procedure.

History Note: Authority: G.S. 89C-10; 89C-21; 89C-22; 150B-39(a);

Eff. February 1, 1976;

Readopted Eff. September 29, 1977;

Amended Eff. August 1, 1998.

SECTION .1600 - STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA

.1602 SURVEYING PROCEDURES

(a) A Registered Land Surveyor shall spend the necessary time and effort to make adequate investigation to determine if there are encroachments, gaps, lappages, or other irregularities along each line surveyed. Points may be placed on the line from nearby closed or verified traverses and the necessary investigations made from these points. If these investigations are not made, then the surveyor shall not certify to an actual survey of that line and the plat must contain the appropriate qualifications in accordance with these standards.

(b) Any and all visible or determined encroachments or easements on the property being surveyed shall be accurately located and clearly indicated. With respect to recorded easements, the surveyor shall, at a minimum, examine the most recent deeds and recorded plats adjacent to the subject property as well as all deeds and plats recorded after the date of the deed or plat upon which the survey is being based.

(c) Except as provided in Paragraph (d) of the Rule, metal stakes or materials of comparable permanence shall be placed at all corners.

(d) Where a corner falls in a right-of-way, in a tree, in a stream, or on a fence post, boulder, stone, etc., one or more monuments or metal stakes shall be placed in the boundary line so that the inaccessible point may be located accurately on the ground and the map. Corners of a property line on a road right-of-way or margin shall be monumented at the points of entry and exit. The intermediate corners need not be monumented if, due to proximate location to the entry and exit points, they may be confused with the entry and exit points.

(e) The results of a survey when reported to the user of that survey, whether in written or graphic form, shall be prepared in a clear and factual manner. All reference sources shall be identified. Artificial monuments called for in such reports shall be described as found or set. When no monument is found or set for points described in Paragraph (d) of this Rule, shown in such reports, that fact shall be noted.

(f) Where the results of a survey are reported in the form of a plat or a written description, one or more corners shall, by a system of azimuths or courses and distances, be accurately

tied to and coordinated with a horizontal control monument of some United States or State Agency survey system, such as the North Carolina Geodetic Survey, where such monument is within 2000 feet of the subject property, right-of-way, easement or other surveyed entity. Where the North Carolina grid system coordinates of said monument are on file in the North Carolina Department of Environment and Natural Resources, the coordinates of both the referenced corner or point and the monument(s) shall be shown in X (easting) and Y (northing) coordinates on the plat or in the written description or document. The coordinates shall be identified as based on 'NAD 83', indicating North American Datum of 1983 or as 'NAD 27' indicating North American Datum of 1927. The tie lines to the monuments must be sufficient to establish true north or grid north bearings for the plat or description if the monuments exist in pairs. Control monuments within a previously recorded subdivision may be used in lieu of grid control. In the interest of bearing consistency with previously recorded plats, existing bearing control may be used where practical. In the absence of Grid Control, other natural or artificial monuments or landmarks shall be used. In all cases, the tie lines shall be sufficient to accurately reproduce the subject lands from the control or reference points used.

(g) Area is to be computed by double meridian distance or equally accurate method and shown on the face of the plat, written description or other document. Area computations by estimation, by planimeter, by scale, or by copying from another source are not acceptable methods, except in the case of tracts containing inaccessible areas and in these areas the method of computation will be clearly stated.

*History Note: Authority G.S. 89C-10; 89C-21;
Eff. July 1, 1989;
Amended Eff. August 1, 1998; February 1, 1996.*

.1603 CLASSIFICATION OF BOUNDARY SURVEYS

General. Boundary surveys are defined as surveys made to establish or to retrace a boundary line on the ground, or to obtain data for constructing a map or plat showing a boundary line. For the purpose of this Rule the term refers to all surveys, including "loan" or "physical" surveys, which involve the determination or depiction of property lines. For the purpose of specifying minimum allowable surveying standards for boundary surveys, the following four general classifications of lands in North Carolina are established from the standpoint of their real value, tax value, or location. Each map shall contain a statement of the calculated ratio of precision before adjustments.

- (1) Local Control Network Surveys (Class AA). Local control network surveys are traverse networks utilizing permanent points for the purpose of establishing local horizontal control networks for future use of local surveyors. For Class AA boundary surveys in North Carolina, the angular error of closure shall not exceed ten seconds times the square root of the number of angles turned. The

ratio of precision shall not exceed an error of closure of one foot per 20,000 feet of perimeter of the parcel of land (1:20,000).

- (2) Urban Land Surveys (Class A). Urban surveys include lands which normally lie within a town or city. For Class A boundary surveys in North Carolina, the angular error of closure shall not exceed 20 seconds times the square root of the number of angles turned. The ratio of precision shall not exceed an error of closure of one foot per 10,000 feet of perimeter of the parcel of land (1:10,000).
- (3) Suburban Land Surveys (Class B). Suburban surveys include lands in or surrounding the urban properties of a town or city. For Class B boundary surveys in North Carolina, the angular error of closure shall not exceed 25 seconds times the square root of the number of angles turned. The ratio of precision shall not exceed an error of closure of one foot per 7,500 feet of perimeter of the parcel of land (1:7,500).
- (4) Rural and Farmland Surveys (Class C). Rural and farmland surveys include lands located in rural areas of North Carolina and generally outside the suburban properties. For Class C boundary surveys in North Carolina, the angular error of closure shall not exceed 30 seconds times the square root of the number of angles turned. The ratio of precision shall not exceed an error of closure of one foot per 5,000 feet of perimeter of the parcel of land (1:5,000).

*History Note: Authority G.S. 89C-10; 89C-21;
Eff. July 1, 1989;
Amended Eff. August 1, 1998; November 2, 1992; January 1, 1992.*

SECTION .1700 - CONTINUING PROFESSIONAL COMPETENCY

.1703 REQUIREMENTS

Every registrant shall obtain 15 PDH units during the renewal period. If a registrant exceeds the annual requirement in any renewal period, a maximum of 15 PDH units may be carried forward into the subsequent renewal period. Selection of courses and activities which meet the requirements of Rule .1702 Item (4) of this Section is the responsibility of the registrant. Registrants have the option of selecting courses other than those offered by sponsors. Post evaluation of courses offered by other than sponsors as defined in Rule .1702 Item (6) of this Section may result in non-acceptance. PDH units may be earned as follows:

- (1) Completion of college courses.
- (2) Completion of continuing education courses.
- (3) Completion of correspondence, televised, videotaped, audiotaped, and other short courses tutorials.
- (4) Presenting or attending seminars, in-house courses.

workshops, or professional or technical presentations made at meetings, conventions or conferences.

- (5) Teaching or instructing in Items (1) through (4) of this Rule.
- (6) Authoring published papers, articles, or books.
- (7) Active participation in professional or technical societies.
- (8) Patents.
- (9) Authoring exam questions accepted for use in the national engineering or land surveying exam.

History Note: Authority G.S. 89C-10(a); 89C-17;

Eff. December 1, 1994;

Amended Eff. August 1, 1998.

CHAPTER 68 - CERTIFICATION BOARD FOR SUBSTANCE ABUSE PROFESSIONALS

SECTION .0100 - GENERAL

.0101 DEFINITIONS

As used in the General Statutes or this Chapter, the following terms have the following meaning:

- (1) "Approved Supervisor" means a person who fulfills or is in the process of fulfilling the requirements for this Board designation pursuant to Rule .0211 of this Chapter by completing its academic, didactic and experiential requirements.
- (2) "Assessment" means identifying and evaluating an individual's strengths, weaknesses, problems and needs for the development of a treatment plan for alcohol and drug abuse.
- (3) "Board" means the North Carolina Substance Abuse Professional Certification Board.
- (4) "Complainant" means a person who has filed a complaint pursuant to these Rules.
- (5) "Consultation" means a meeting for discussion, decision-making and planning with other service providers for the purpose of providing substance abuse services.
- (6) "Crisis" means a decisive, crucial event in the course of treatment that threatens, either directly or indirectly related to alcohol or drug use, to compromise or destroy the rehabilitation effort.
- (7) "Deemed Status Group" means those persons who are credentialed as a clinical addictions specialist because of their membership in a deemed status discipline.
- (8) "Full Time" means 2,000 hours per year.
- (9) "Hearing Committee" means a committee comprised of three members of the Board appointed by the President to hear an appeal from the Ethics Committee.
- (10) "Letter of Reference" means a letter that recommends a person for certification.
- (11) "Membership In Good Standing" means a member's certification is not in a state of revocation, lapse, or

suspension. However, an individual whose certification is suspended and the suspension is stayed is a member in good standing during the period of the stay.

- (12) "Passing Score" means the score set by the entity administering the exam.
- (13) "President" means the President of the Board.
- (14) "Referral" means identifying the needs of an individual that cannot be met by the counselor or agency and assisting the individual to utilize the support systems and community resources available.
- (15) "Reprimand" means a formal written warning from the Board to a person making application for certification by the Board or certified by the Board.
- (16) "Respondent" means a person who is making application for certification by the Board or is certified by the Board against whom a complaint has been filed.
- (17) "Substance Abuse Counseling Experience" means approved supervised experience that may be full time or part-time, paid or voluntary, and must include all of the 12 core functions (Rule .0205 of this Chapter) as documented by a job description and supervisor's evaluation.
- (18) "Supervised Practical Training" means supervision to teach the knowledge and skills related to substance abuse professionals at a ratio of one hour of supervision to every 10 hours of practice for 300 practice hours.
- (19) "Suspension" means a loss of certification or the privilege of making application for certification.

History Note: Authority G.S. 90-113.30; 90-113.33; 90-113.40; 90-113.41; 90-114.41A;

Eff. August 1, 1996;

Temporary Amendment Eff. November 15, 1997;

Amended Eff. August 1, 1998.

.0102 BOARD MAILING ADDRESS

Unless otherwise directed, all correspondence shall be mailed to the following address:

North Carolina Substance Abuse
Professional Certification Board
P.O. Box 10126
Raleigh, NC 27605.

History Note: Authority G.S. 90-113.30; 90-113.33;

Eff. August 1, 1996;

Amended Eff. August 1, 1998.

SECTION .0300 - CLINICAL ADDICTIONS SPECIALIST

.0301 SCOPE

The rules in this Section apply to a person seeking certification as a clinical addictions specialist and a professional discipline seeking deemed status.

*History Note: Authority G.S. 113.30; 90-113.40; 90-113.41A;
Temporary Adoption Eff. November 15, 1997;
Eff. August 1, 1998.*

.0303 APPLICATION FOR DEEMED STATUS BY PROFESSIONAL DISCIPLINE

(a) Any professional discipline seeking deemed status shall forward a letter of intent with a request for an application to become a deemed status organization to the Board.

(b) As directed by the Board, the discipline shall provide the following:

- (1) Documentation that it meets the requirements of G.S. 90-113.41A;
- (2) A copy of the ethical code and statement, if any, it requires its members to sign indicating that the member will comply with the discipline's code of ethics; and, any substantiating data that supports the ethical process of the professional discipline;
- (3) Documentation describing the exam process each applicant must pass in order to be awarded the professional group's substance abuse specialty credential.

(c) A discipline granted deemed status shall provide the name of any member whose credential is revoked, suspended or denied within 60 days from the date of action.

(d) The professional discipline, to the extent allowed by its statutes and rules, shall provide any information requested by the Board that has been submitted to the professional discipline regarding the complaint against its member, subsequent to the disposition of the complaint.

(e) If no information has been received by the Board within six months, or the Board is not satisfied with the disposition of the complaint, the Board may initiate its own disciplinary action.

*History Note: Authority G.S. 90-113.32; 90-113.33; 90-113.41A; 90-113.43;
Temporary Adoption Eff. November 15, 1997;
Eff. August 1, 1998.*

SECTION .0600 - GROUNDS FOR DISCIPLINE AND DISCIPLINARY PROCEDURES

.0603 INVESTIGATION OF COMPLAINT

(a) The Ethics Committee Chairperson, in consultation with the President and legal counsel, shall investigate the allegations in the complaint. The Chairperson may appoint any person(s) or name a subcommittee to serve as the investigating entity and to prepare an investigative report.

(b) The investigating entity may contact the complainant and person against whom the complaint is made.

(c) Upon completion of the investigation, the Ethics Committee Chairperson in consultation with the investigating entity may determine that:

- (1) The complaint is without merit. The Chairperson shall notify the complainant that the complaint is dismissed. The Chairperson shall also notify the

complainant of the procedure for appeal of the dismissal.

- (2) Upon completion of an investigation wherein the complaint is not dismissed, the investigating entity shall make a written report to the Ethics Committee.

(d) Those Ethics Committee members who serve on the Board shall review the report and may take any of the following actions:

- (1) Schedule a meeting with the respondent whereby the dispute may be settled through informal procedures;
- (2) Schedule a disciplinary hearing before the Board;
- (3) Dismiss the complaint; and
- (4) Remand the matter to the investigating entity in order to obtain additional evidence sufficient upon which to base a decision.

History Note: Filed as a Temporary Adoption Eff. October 23, 1995 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;

Authority G.S. 90-113.33; 90-113.34; 90-113.44;

Eff. February 1, 1996;

Amended Eff. August 1, 1998.

TITLE 26 - OFFICE OF ADMINISTRATIVE HEARINGS

CHAPTER 4 - CIVIL RIGHTS DIVISION

SECTION .0200 - POLITICAL DISCRIMINATION COMPLAINTS

.0202 CONTENT AND FILING PROCEDURES

(a) Forms for filing political discrimination complaints may be obtained from the Civil Rights Division, PO Drawer 27447, Raleigh, NC 27611-7447 or 919-733-0431. Any person wishing to file a complaint of alleged political discrimination shall address the complaint to:

Director of Civil Rights Division

PO Drawer 27447

Raleigh, NC 27611-7447

(b) The complainant may file a political discrimination complaint and related documents by facsimile (fax) transmission during regular office hours as defined in 26 NCAC 1.0102. The faxed complaints and documents shall be deemed a "filing" within the meaning of 26 NCAC 4.0201(3) provided the original complaint or documents are received by the Civil Rights Division within five business days following the faxed transmission.

(c) The complaint shall include the following information:

- (1) Full name, address and telephone number (work and home) of person making the complaint;
- (2) Full name, address and telephone number of the agency against whom the complaint is made (the respondent);
- (3) The basis of the complaint (hiring or promotion);

- (4) The date the alleged discrimination occurred:
- (5) The name(s) of the individual(s) hired or promoted:
- (6) A statement disclosing the particulars of the employment decision:
- (7) The signature of the person making the complaint:
and
- (8) The date the complainant signed the complaint.

*History Note: Authority G.S. 7A-751; 126-14.4;
Temporary Adoption Eff. January 1, 1998;
Eff. August 1, 1998.*

This Section contains the agenda for the next meeting of the Rules Review Commission on Thursday, July 23, 1998, 10:00 a.m., at 1307 Glenwood Ave., Assembly Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners by Monday, July 20, 1998, at 5:00 p.m. Specific instructions and addresses may be obtained from the Rules Review Commission at 919-733-2721. Anyone wishing to address the Commission should notify the RRC staff and the agency at least 24 hours prior to the meeting.

RULES REVIEW COMMISSION MEMBERS

Appointed by Senate
 Teresa L. Smallwood, Vice Chairman
 Jim Funderburke
 Vernice B. Howard
 Phillip O. Redwine
 David Twiddy

Appointed by House
 Paul Powell, Chairman
 Anita White, 2nd Vice Chairman
 Mark Garside
 Steve Rader
 George Robinson

RULES REVIEW COMMISSION MEETING DATES

July 23, 1998
 August 20, 1998
 September 17, 1998

October 15, 1998
 November 19, 1998

MEETING DATE: JULY 23, 1998

LOG OF FILINGS

RULES SUBMITTED: MAY 20, 1998 THROUGH JUNE 20, 1998

AGENCY/DIVISION	RULE NAME	RULE CITATION	ACTION
DHHS/SECRETARY OF DHHS	Governor Morehead School Campus Parking	10 NCAC 21B .0117	Adopt
DHHS/DIVISION OF MEDICAL ASSISTANCE	Rate Setting Methods	10 NCAC 06H .0102	Amend
	DRG Rate Setting Methodology	10 NCAC 06H .0211	Amend
	Physician's Fee Schedule	10 NCAC 26H .0401	Amend
DENR/COASTAL RESOURCES COMMISSION	Use Standards	15 NCAC 07H .0310	Amend
DENR/WILDLIFE RESOURCES COMMISSION	Brunswick County	15 NCAC 10F .0305	Amend
	Granville, Vance & Warren Counties	15 NCAC 10F .0311	Amend
	Stanly County	15 NCAC 10F .0317	Amend
	Montgomery County	15 NCAC 10F .0327	Amend
DENR/COMMISSION FOR HEALTH SERVICES	Definitions	15 NCAC 18A .3101	Amend
	Persistent Elevated Blood Lead Level	15 NCAC 18A .3102	Amend
	Examination and Testing	15 NCAC 18A .3103	Amend
	Investigation	15 NCAC 18A .3104	Amend
	Lead Poisoning Hazard	15 NCAC 18A .3105	Amend
	Abatement and Remediation	15 NCAC 18A .3106	Amend

Maintenance Standard	15 NCAC 18A .3107	Adopt
Application and Issuance of Certificate	15 NCAC 18A .3108	Adopt
Revocation and Denial of Certificate	15 NCAC 18A .3109	Adopt
Monitoring	15 NCAC 18A .3110	Adopt
Resident Responsibilities	15 NCAC 18A .3111	Adopt
COSMETIC ART EXAMINERS, BOARD OF		
Address	21 NCAC 14A .0104	Amend
OFFICE OF ADMINISTRATIVE HEARINGS		
Content and Filing Procedures	26 NCAC 04 .0202	Amend

RULES REVIEW COMMISSION

June 18, 1998 MINUTES

The Rules Review Commission met on June 18, 1998, in the Rules Review Commission Conference Room of the Methodist Building, 1307 Glenwood Avenue, Raleigh, North Carolina. Commissioners in attendance were Vice Chairman Teresa L. Smallwood, Vernice B. Howard, George S. Robinson, Jim R. Funderburk, Steven P. Rader, and David R. Twiddy (by phone).

Staff members present were: Joseph J. DeLuca, Staff Director; Bobby Bryan, Rules Review Specialist; and Sandy Webster.

The following people attended:

Valerie Chaffin
Charlotte Hall

Hunton & Williams
DHHS MH DD SAS

APPROVAL OF MINUTES

The meeting was called to order at 10:20 a.m. with Vice Chairman Smallwood presiding. She asked for any discussion, comments, or corrections concerning the minutes of the May 21, 1998 meeting. There being none, the minutes were approved.

FOLLOW-UP MATTERS

10 NCAC 41A .0007 – DHHS Social Services Commission: The agency responded that they needed additional time and would respond at next month's meeting.

10 NCAC 47B .0102 - DHHS Social Services Commission: The rewritten rule submitted by the agency was approved by the Commission.

12 NCAC 7D .0204 – JUSTICE NC Private Protective Services Board: The rewritten rule submitted by the agency was approved by the Commission

12 NCAC 7D .1106 – JUSTICE NC Private Protective Services Board: The rewritten rule submitted by the agency was approved by the Commission

15A NCAC 10G .0404 – DENR Wildlife Resources Commission: The extended period of review had expired. The Commission objected to this rule due to lack of statutory authority and ambiguity. This objection applies to existing language in the rule.

LOG OF FILINGS

ViceChairman Smallwood presided over the review of the log and all rules were approved with the following exceptions:

10 NCAC 14G .0102 – DHHS Commission for MH DD SAS: The Commission objected to this rule due to lack of statutory authority and ambiguity. In (b)(41)(B), it is not clear what protective intervention techniques are specified in the "Protective Intervention Course Manual." There is no authority for limiting what is meant by "restraint" outside of rulemaking. The added

sentence in (b)(42) is unclear. The provision is a definition of "seclusion." The sentence is written as a list of three things that are not "seclusion," but the last two appear to be situations when "seclusion" should not be used rather than a limitation on the term. This objection applies to existing language in the rule.

COMMISSION PROCEDURES AND OTHER MATTERS

The next meeting will be on July 23, 1998 which is one week later than normal.

The meeting adjourned at 10:40 a.m.

Respectfully submitted,
Sandy Webster

This Section contains the full text of some of the more significant Administrative Law Judge decisions along with an index to all recent contested cases decisions which are filed under North Carolina's Administrative Procedure Act. Copies of the decisions listed in the index and not published are available upon request for a minimal charge by contacting the Office of Administrative Hearings, (919) 733-2698.

OFFICE OF ADMINISTRATIVE HEARINGS

Chief Administrative Law Judge
JULIAN MANN, III

Senior Administrative Law Judge
FRED G. MORRISON JR.

ADMINISTRATIVE LAW JUDGES

Brenda B. Becton
Sammie Chess Jr.
Beecher R. Gray
Melissa Owens

Meg Scott Phipps
Robert Roosevelt Reilly Jr.
Dolores O. Smith

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
CRIME CONTROL AND PUBLIC SAFETY				
Mia Thompson-Clark v. Crime Victims Compensation Commission	98 CPS 0349	Chess	05/14/98	
ENVIRONMENT AND NATURAL RESOURCES				
John M. Silva v. Department of Environment and Natural Resources	97 EHR 1646	Chess	06/03/98	
Scotland Water, Cedar Circle v. Environment and Natural Resources	98 EHR 0236	Smith	06/09/98	
HEALTH AND HUMAN SERVICES				
Louise Streater v. Health and Human Services	98 DHR 0196	Gray	06/03/98	
<i>Division of Facility Services</i>				
Diane Lingard v. DHR, Facility Svcs, Health Care Personnel Reg	98 DHR 0214	Becton	06/22/98	
Sunlite Retirement Home, Winnie Jane Johnson v. DHR, Facility Services	98 DHR 0124	Phipps	06/11/98	
<i>Division of Social Services</i>				
<i>Child Support Enforcement Section</i>				
Donald L. Carr, Jr. v. Department of Human Resources	98 CRA 0545	Reilly	06/08/98	
Alton D. Bagley v. Department of Human Resources	97 CSE 1424	Chess	06/02/98	
Bernel B. Berry Jr. v. Department of Human Resources	97 CSE 1435	Smith	06/12/98	
Wade A. Burgess v. Department of Human Resources	98 CSE 0071	Morrison	06/12/98	
Terita M. Sharpe v. Department of Human Resources	98 DCS 0468	Morrison	06/09/98	
JUSTICE				
<i>Education and Training Standards Division</i>				
William Scott Key v. Sheriffs' Education & Training Standards Comm	98 DOJ 0432	Becton	06/08/98	
STATE PERSONNEL				
<i>Crime Control and Public Safety</i>				
Roger D. Davis v. Crime Control & Public Safety, St. Hwy Patrol	97 OSP 0617	Chess	05/27/98	

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<i>Employment Security Commission</i>				
Jane B. Bolin and Arlene G. Sellers v. Employment Security Commission	97 OSP 1122* ¹	Chess	06/02/98	
Jane B. Bolin and Arlene G. Sellers v. Employment Security Commission	97 OSP 1134* ¹	Chess	06/02/98	
<i>Environment and Natural Resources</i>				
Charles Anthony Bruce v. ENR, Division of Parks and Recreation	98 OSP 0240	Reilly	06/08/98	
<i>Health and Human Services</i>				
Anthony M. Ruiz v. Department of Health & Human Svcs, Youth Svcs.	98 OSP 0454	Gray	06/04/98	
<i>University of North Carolina</i>				
Deborah J. Fenner v. NC Central University	97 OSP 0902	Chess	05/29/98	
Douglas Love, Jr. v. UNC Hospitals	97 OSP 0662	Reilly	06/08/98	
STATE TREASURER				
Hugh A. Wells v. Consolidated Judicial Retirement System of NC; Bd. of Trustees Teachers and State Employees' Retirement System	98 DST 0316	Morrison	06/05/98	13-01 NCR 166
TRANSPORTATION				
David Warren Dew et al. v. Motor Vehicles, Alexander Killens Comm	95 DOT 1144	Gray	06/04/98	

* Consolidated Cases.

STATE OF NORTH CAROLINA

**IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
98 DST 0316**

COUNTY OF WAKE

**HUGH A. WELLS, Judge of the North Carolina Court
of Appeals (Retired),
Petitioner,**)
)
)
)
v.)
)
**CONSOLIDATED JUDICIAL RETIREMENT SYSTEM
OF NORTH CAROLINA, a corporation; BOARD OF
TRUSTEES OF THE TEACHERS' AND STATE
EMPLOYEES' RETIREMENT SYSTEM OF NORTH
CAROLINA, et al.,**)
Respondent.)

RECOMMENDED DECISION

THIS MATTER was heard before Fred Morrison Jr., Senior Administrative Law Judge, Office of Administrative Hearings, on April 24, and June 3, 1998, in Raleigh, North Carolina, on the parties' cross-motions for a Recommended Decision in the Nature of Summary Judgment.

APPEARANCES

For Petitioner: Marvin Schiller, Attorney at Law, and G. Eugene Boyce, Attorney at Law, both of Raleigh, North Carolina.

For Respondents: Alexander McC. Peters, Special Deputy Attorney General, N.C. Department of Justice, Raleigh, North Carolina.

ISSUE

Whether Respondents have properly applied the provisions of N.C. GEN. STAT. §§ 135-3(8)d and 135-52 to Petitioner.

UNDISPUTED FACTUAL BACKGROUND

The facts of this contested case are undisputed. Petitioner is a retired judge of the North Carolina Court of Appeals. Judge Wells became a judge of the Court of Appeals on or about August 29, 1979, and served in that position until June 30, 1994. While a judge of the Court of Appeals, Judge Wells was a member of and made regular monthly contributions to the Consolidated Judicial Retirement System of North Carolina ("CJRS"), which is created and governed by the provisions of Article 4 of N.C. GEN. STAT. Chapter 135. Petitioner retired on a service retirement from his position as judge of the Court of Appeals pursuant to the provisions of N.C. GEN. STAT. §§ 135-57 and -58, effective July 1, 1994, and he began to draw a \$5,182 monthly retirement allowance from CJRS as of that date. He was automatically retired because he reached the age of 72.

Also on or about July 1, 1994, Judge Wells accepted an appointment from Governor James B. Hunt as chairman of the North Carolina Utilities Commission at a monthly salary of \$6,781. He served in that position until December 31, 1996. Beginning the month after Judge Wells accepted appointment as chairman of the Utilities Commission, the CJRS suspended his monthly retirement allowance pursuant to N.C. GEN. STAT. § 135-3(8)d, which provides, in pertinent part:

Should a beneficiary who retired on an early or service retirement allowance under this Chapter be restored to service as an employee or teacher, then the retirement allowance shall cease as of the first of the month following the month in which the beneficiary is restored to service and the beneficiary shall become a member of the Retirement System and shall contribute thereafter as allowed by law at the uniform contribution payable by all members.

Prior to retiring from the court, Judge Wells had several communications with the retirement system's director as to how his benefits would be affected if he retired and subsequently was appointed to chair the Utilities Commission. He was advised that his judicial benefits would be suspended as long as he served as chairman, but if he delayed the Utilities' appointment for one month and received a retirement benefit check, his wife would be vested in the system and be eligible for a monthly benefit

for life upon his death. Judge Wells chose this course of action and did not challenge the director's interpretations of Chapter 135 during his decision-making process.

Prior to his appointment to the Court of Appeals, Judge Wells had been employed by the North Carolina Utilities Commission. Judge Wells was initially employed with the Utilities Commission on January 1, 1970, and subsequently became a member of the Teachers' and State Employees' Retirement System. He terminated his employment with the Utilities Commission on April 30, 1975, but later returned to employment with the Utilities Commission on July 1, 1977. He thereafter terminated employment again on August 17, 1979. Judge Wells applied for a return of his accumulated contributions and was subsequently paid a refund in the gross amount of \$16,047.37 on February 27, 1980. Following his resignation as Chairman of the Utilities Commission, Judge Wells applied for and received a refund of his accumulated contributions to the Teachers' and State Employees' Retirement System in the gross amount of \$12,587.56 on March 5, 1997, thereby closing his account. In late 1996, Judge Wells notified the system of his impending resignation and requested that his monthly judicial retirement benefits be restored effective January 1, 1997, which was done in the amount of \$5,518.20 per month.

On March 12, 1998, Judge Wells filed a petition in this office challenging the suspension of his judicial retirement benefits from August 1994 through December 1996.

CONCLUSIONS OF LAW

1. The sole issue presented in this contested case is whether the Retirement Systems Division, Department of State Treasurer ("the Division") and the Board of Trustees of the Teachers' and State Employees' Retirement System ("the Board"), which administer both the Teachers' and State Employees' Retirement System and the Consolidated Judicial Retirement System, have correctly applied the provisions of N.C. GEN. STAT. § 135-3(8)d to Judge Wells.

2. The primary statute at issue, N.C. GEN. STAT. § 135-3(8)d provides that:

[s]hould a beneficiary who retired on an early or service retirement allowance under this Chapter be restored to service as an employee or teacher, then the retirement allowance shall cease as of the first of the month following the month in which the beneficiary is restored to service and the beneficiary shall become a member of the Retirement System and shall contribute thereafter as allowed by law to the uniform contribution payable by all members.

3. This statute is contained in Article 1 of N.C. GEN. STAT. Chapter 135, which governs the Teachers' and State Employees' Retirement System of North Carolina. The Consolidated Judicial Retirement System, of which Judge Wells was a member and from which his benefits would have been paid had they not been suspended, is governed by Article 4 of the same Chapter 135.

4. Pursuant to N.C. GEN. STAT. § 135-1(6), a "[b]eneficiary" shall mean any person in receipt of a pension, an annuity, a retirement allowance or other benefit as provided by this Chapter." Similarly, pursuant to N.C. GEN. STAT. §§ 135-1(20) and -1(21), "[r]etirement" shall mean the withdrawal from active service with a retirement allowance granted under the provisions of this Chapter," while a "[r]etirement allowance" shall mean the sum of the "annuity and the pensions," or any optional benefit payable in lieu thereof."

5. Effective July 1, 1994, Judge Wells was in receipt of a service retirement allowance from the Consolidated Judicial Retirement System pursuant to the provisions of N.C. GEN. STAT. §§ 135-57 and -58. He was, therefore, in receipt of "a pension, an annuity, a retirement allowance or other benefit" under the provisions of Chapter 135, and accordingly he met the definition of "beneficiary" contained in N.C. GEN. STAT. § 135-1(6) when he began work as Chairman of the Utilities Commission.

6. Statutes governing the CJRS and its predecessors -- the Uniform Judicial Retirement System, the Uniform Solicitorial Retirement System, and the Uniform Clerks of Superior Court Retirement System -- have been contained in Chapter 135 since at least 1976. See 1973 Sess. Laws, Chapter 640; N.C. GEN. STAT. Chapter 135, Article 4A (the Uniform Solicitorial Retirement Act of 1974, now repealed); and N.C. GEN. STAT. Chapter 135, Article 4B (the Uniform Clerks of Superior Court Retirement Act of 1975, now repealed).

7. "A long-standing rule of statutory construction declares that a facially clear and unambiguous statute requires no interpretation." *Taylor v. City of Lenoir*, COA96-1485, slip op. at 8 (N.C. Court of Appeals, April 7, 1998) citing *Peele v. Finch*, 284 N.C., 375, 382, 200 S.E.2d 635, 640 (1973).

8. The provisions of N.C. GEN. STAT. § 135-3(8)d are "facially clear and unambiguous." They plainly state that when a person in receipt of a retirement benefit under any provision of Chapter 135 becomes an active teacher or State employee, then the benefit shall be suspended for the duration of the employment, and the person shall become a contributing member of the Teachers' and State Employees' Retirement System. Accordingly, they "must be enforced as written." *Taylor*, COA96-1485, slip op. at 9, quoting *Bowers v. City of High Point*, 339 N.C. 413, 419-20, 451 S.E.2d 284, 289 (1994). After retiring, Judge Wells was restored to service as a State employee.

9. The provisions of Article 4 of Chapter 135 reinforce the Division's position that it was required to apply the provisions of N.C. GEN. STAT. § 135-3(8)d to Judge Wells. N.C. GEN. STAT. § 135-52(a), which is part of Article 4, specifically states that:

References in Article 1 of this Chapter to the provisions of "this Chapter" shall not necessarily apply to this Article. However, except as otherwise provided in this Article, the provisions of Article 1 are applicable and shall apply to and govern the administration of the Retirement System established hereby. Not in limitation of the foregoing, the provisions of G.S. 135-5(h), 135-5(n), 135-9, 135-10, 135-12 and 135-17 are specifically applicable to the Retirement System established hereby.

(Emphasis added.)

10. There are no provisions of Article 4 that would limit or exempt N.C. GEN. STAT. § 135-3(8)d from application to and government of the Consolidated Judicial Retirement System. (Bryan deposition, p. 58, lines 11-15) Again, then, the clear and unambiguous provisions of N.C. GEN. STAT. § 135-52(a) require no interpretation and plainly require the Division to apply the provisions of N.C. GEN. STAT. § 135-3(8)d to Judge Wells. See *Peele*, 284 N.C. at 382, 200 S.E.2d at 640; *Taylor*, COA96-1485, slip op. at 8.

11. "While it is not controlling, the construction given a statute by the agency charged with administering it is relevant evidence of the statute's meaning." *Taylor*, COA96-1485, slip op. at 12, citing *Comr. of Insurance v. Automobile Rate Office*, 294 N.C. 60, 241 S.E.2d 324 (1978). Moreover,

[t]he construction placed upon a statute by the officers whose duty it is to execute it is entitled to great consideration, especially if such construction has been made by the highest officers in the executive department of the Government or has been observed and acted upon for many years; and such construction should not be disregarded or overturned unless it is clearly erroneous.

Taylor, COA96-1485, slip op. at 12-13, quoting *Gill v. Commissioners*, 160 N.C. 144, 153, 76 S.E. 203, 208 (1912). See also *In re Vanderbilt University*, 252 N.C. 743, 747, 114 S.E.2d 655, 658 (1960) ("[o]rordinarily, the interpretation given to the provisions of our tax statutes by the Commissioner of Revenue will be held to be *prima facie* correct and such interpretation will be given due and careful consideration by this Court").

12. At his deposition, Timothy Bryan, who is Deputy Director of the Division and who has been employed in the Division since 1984, testified that the Division believes that its application of the provisions of N.C. GEN. STAT. §§ 135-3(8)d and -52(a) was required by the clear language of the statute, and that the Division's interpretation and application of these statutes in this way dates back to the 1970's. (Bryan deposition, p. 22, lines 7-11; p. 23, line 12 - p. 24, line 25; p. 30, lines 16-18; p. 48, line 17 - p. 49, line 8) Petitioner has offered no evidence to contradict this testimony. The construction and application given to N.C. GEN. STAT. §§ 135-3(8)d and -52(a) by the Division and the Board, as set forth in Mr. Bryan's deposition, deserves "due and careful consideration." *Taylor*, COA96-1485, slip op. at 13. Indeed, it should be held to be *prima facie* correct, *id.*; and it "should not be disregarded or overturned unless it is clearly erroneous." *Gill*, 160 N.C. at 153, 76 S.E. at 208. Judge Wells apparently held it to be correct for more than three years.

13. Petitioner has failed to demonstrate that Respondents' interpretation and application of the clear provisions of N.C. GEN. STAT. §§ 135-3(8)d and -52(a) is "clearly erroneous," or that the presumption that it is *prima facie* correct should be disregarded. Accordingly, the Respondent's interpretation and application of these statutes in this matter should be found to be proper and indeed required by the plain language of these statutes.

RECOMMENDED DECISION

The Board of Trustees of the Teachers' and State Employees' Retirement System of North Carolina will make the Final Decision in this contested case. It is recommended that the Board adopt the conclusions of law set forth above and determine

that Petitioner's retirement benefits from the Consolidated Judicial Retirement System were properly suspended pursuant to N.C. GEN. STAT. § 135-3(8)d and 135-52.

ORDER

It is hereby ordered that the agency serve a copy of the final decision on the Office of Administrative Hearings, P.O. Drawer 27447, Raleigh, North Carolina, 27611-7447, in accordance with N.C. GEN. STAT. § 150B-36(b).

NOTICE

The agency making the final decision in this contested case is required to give each party an opportunity to file exceptions to this recommended decision and to present written arguments to those in the agency who will make the final decision. N.C. GEN. STAT. § 150B-36(a).

The agency is required by N.C. GEN. STAT. § 150B-36(b) to serve a copy of the final decision on all parties and to furnish a copy to the parties' attorney of record and to the Office of Administrative Hearings.

The agency that will make the final decision in this contested case is the Board of Trustees of the Teachers' and State Employees' Retirement System of North Carolina.

This the 5th day of June, 1998.

Fred G. Morrison Jr.
Senior Administrative Law Judge

The North Carolina Administrative Code (NCAC) has four major subdivisions of rules. Two of these, titles and chapters, are mandatory. The major subdivision of the NCAC is the title. Each major department in the North Carolina executive branch of government has been assigned a title number. Titles are further broken down into chapters which shall be numerical in order. The other two, subchapters and sections are optional subdivisions to be used by agencies when appropriate.

TITLE/MAJOR DIVISIONS OF THE NORTH CAROLINA ADMINISTRATIVE CODE

TITLE	DEPARTMENT	LICENSING BOARDS	CHAPTER
1	Administration	Acupuncture	1
2	Agriculture	Architecture	2
3	Auditor	Athletic Trainer Examiners	3
4	Commerce	Auctioneers	4
5	Correction	Barber Examiners	6
6	Council of State	Certified Public Accountant Examiners	8
7	Cultural Resources	Chiropractic Examiners	10
8	Elections	Employee Assistance Professionals	11
9	Governor	General Contractors	12
10	Health and Human Services	Cosmetic Art Examiners	14
11	Insurance	Dental Examiners	16
12	Justice	Dietetics Nutrition	17
13	Labor	Electrical Contractors	18
14A	Crime Control & Public Safety	Electrolysis	19
15A	Environment and Natural Resources	Foresters	20
16	Public Education	Geologists	21
17	Revenue	Hearing Aid Dealers and Fitters	22
18	Secretary of State	Landscape Architects	26
19A	Transportation	Landscape Contractors	28
20	Treasurer	Marital and Family Therapy	31
*21	Occupational Licensing Boards	Medical Examiners	32
22	Administrative Procedures	Midwifery Joint Committee	33
23	Community Colleges	Mortuary Science	34
24	Independent Agencies	Nursing	36
25	State Personnel	Nursing Home Administrators	37
26	Administrative Hearings	Occupational Therapists	38
27	NC State Bar	Opticians	40
		Optometry	42
		Osteopathic Examination & Reg. (Repealed)	44
		Pastoral Counselors. Fee-Based Practicing	45
		Pharmacy	46
		Physical Therapy Examiners	48
		Plumbing, Heating & Fire Sprinkler Contractors	50
		Podiatry Examiners	52
		Professional Counselors	53
		Psychology Board	54
		Professional Engineers & Land Surveyors	56
		Real Estate Appraisal Board	57
		Real Estate Commission	58
		Refrigeration Examiners	60
		Sanitarian Examiners	62
		Social Work Certification	63
		Soil Scientists	69
		Speech & Language Pathologists & Audiologists	64
		Substance Abuse Professionals	68
		Therapeutic Recreation Certification	65
		Veterinary Medical Board	66

Note: Title 21 contains the chapters of the various occupational licensing boards.

CUMULATIVE INDEX

(Updated through June 24, 1998)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				

This index provides information related to notices, rules and other documents published in the Register. It includes information about rules for which Notice of Rule-Making Proceedings or Notice of Text have been published, rules submitted to the Rules Review Commission and rules codified since the last session of the General Assembly. For assistance contact the Rules Division at 919/733-2678.

Fiscal Note: S = Rule affects the expenditure or distribution of state funds. L = Rule affects the expenditure or distribution of local government funds. SE = Rule has a substantial economic impact of at least \$5,000,000 in a 12-month period. * = Rule-making agency has determined that the rule does not impact state or local funds and does not have a substantial economic impact. See G.S. 150B-21.4.

ACUPUNCTURE, LICENSING BOARD

21 NCAC 01 .0101 12:22 NCR 1981
21 NCAC 01 .0105 12:22 NCR 1981

ADMINISTRATION

Environmental Policy Act

1 NCAC 25 .0212 12:23 NCR 2088
1 NCAC 25 .0213 12:23 NCR 2088
1 NCAC 25 .0302 12:23 NCR 2088
1 NCAC 25 .0303 12:23 NCR 2088
1 NCAC 25 .0402 12:23 NCR 2088
1 NCAC 25 .0504 12:23 NCR 2088
1 NCAC 25 .0505 12:23 NCR 2088
1 NCAC 25 .0506 12:23 NCR 2088
1 NCAC 25 .0602 12:23 NCR 2088
1 NCAC 25 .0603 12:23 NCR 2088
1 NCAC 25 .0605 12:23 NCR 2088

Purchase and Contract Division

1 NCAC 05B .0301 12:17 NCR 1611
1 NCAC 05B .0302 12:17 NCR 1611
1 NCAC 05B .0310 12:17 NCR 1611
1 NCAC 05B .0316 12:17 NCR 1611
1 NCAC 05B .0401 12:17 NCR 1611
1 NCAC 05B .0801 12:17 NCR 1611
1 NCAC 05B .0802 12:17 NCR 1611

CUMULATIVE INDEX (Updated through June 24, 1998)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
1 NCAC 05B 1301		12 17 NCR 1611								
1 NCAC 05B 1519		12 17 NCR 1611								
1 NCAC 05B 1604		12 17 NCR 1611								
1 NCAC 05B 1906		12 17 NCR 1611								
ADMINISTRATIVE HEARINGS										
Civil Rights Division										
26 NCAC 04 0101		12 12 NCR 1071	12 16 NCR 1508	*	Approve	04/15/98			13 01 NCR 43	
26 NCAC 04 0201		12 12 NCR 1071	12 16 NCR 1508	*	Approve	04/15/98			13 01 NCR 43	
26 NCAC 04 0202		12 12 NCR 1071	12 16 NCR 1508	*	Approve	04/15/98	*		13 01 NCR 43	
26 NCAC 04 0203		12 12 NCR 1071	12 16 NCR 1508	*	Approve	04/15/98			13 01 NCR 43	
26 NCAC 04 0204		12 12 NCR 1071	12 16 NCR 1508	*	Approve	04/15/98			13 01 NCR 43	
AGRICULTURE										
Structural Pest Control										
2 NCAC 34 0102	12 09 NCR 743		12 14 NCR 1234	*	Approve	04/15/98	*		13 01 NCR 43	Addendum NCR 1419 12:15
2 NCAC 34 0302	12 09 NCR 743		12 14 NCR 1234	*	Approve	04/15/98	*		13 01 NCR 43	
2 NCAC 34 0303	12 09 NCR 743		12 14 NCR 1234	*	Approve	04/15/98	*		13 01 NCR 43	
2 NCAC 34 0306	12 09 NCR 743		12 14 NCR 1234	*	Approve	04/15/98	*		13 01 NCR 43	
2 NCAC 34 0308	12 09 NCR 743		12 14 NCR 1234	*	Approve	04/15/98	*		13 01 NCR 43	
2 NCAC 34 0309	12 09 NCR 743		12 14 NCR 1234	S/L	Approve	04/15/98	*		13 01 NCR 43	Addendum NCR 1419 12:15
2 NCAC 34 0312	12 09 NCR 743		12 14 NCR 1234	*	Approve	04/15/98			13 01 NCR 43	
2 NCAC 34 0313	12 09 NCR 743		12 14 NCR 1234	S/L	Approve	04/15/98	*		13 01 NCR 43	
2 NCAC 34 0323	12 09 NCR 743		12 14 NCR 1234	*	Approve	04/15/98			13 01 NCR 43	
2 NCAC 34 0325	12 09 NCR 743		12 14 NCR 1234	*	Approve	04/15/98	*		13 01 NCR 43	
2 NCAC 34 0328	12 09 NCR 743		12 14 NCR 1234	*	Approve	04/15/98	*		13 01 NCR 43	Addendum NCR 1419 12:15
2 NCAC 34 0401	12 09 NCR 743		12 14 NCR 1234	*	Approve	04/15/98	*		13 01 NCR 43	
2 NCAC 34 0402	12 09 NCR 743		12 14 NCR 1234	*	Approve	04/15/98			13 01 NCR 43	
2 NCAC 34 0403	12 09 NCR 743		12 14 NCR 1234	*	Approve	04/15/98	*		13 01 NCR 43	
2 NCAC 34 0404	12 09 NCR 743		12 14 NCR 1234	*	Object	04/15/98			13 01 NCR 43	

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2 NCAC 34 0406	12 09 NCR 743		12 14 NCR 1234	*	Approve	05/21/98	*		13 01 NCR 43	
2 NCAC 34 0501	12 09 NCR 743		12 14 NCR 1234	*	Approve	04/15/98	*		13 01 NCR 43	
2 NCAC 34 0502	12 09 NCR 743		12 14 NCR 1234	*	Approve	04/15/98	*		13 01 NCR 43	
2 NCAC 34 0503		11 21 NCR 1651	12 06 NCR 455	*	Approve	04/15/98	*			
2 NCAC 34 0503	12 09 NCR 743		12 14 NCR 1234	*	Approve	04/15/98	*		13 01 NCR 43	
2 NCAC 34 0504	12 09 NCR 743		12 14 NCR 1234	*	Approve	04/15/98	*		13 01 NCR 43	
2 NCAC 34 0505	12 09 NCR 743		12 14 NCR 1234	*	Approve	04/15/98	*		13 01 NCR 43	
2 NCAC 34 0506	12 09 NCR 743		12 14 NCR 1234	*	Approve	04/15/98	*		13 01 NCR 43	
2 NCAC 34 0507	12 09 NCR 743		12 14 NCR 1234	*	Approve	04/15/98	*		13 01 NCR 43	
2 NCAC 34 0508	12 09 NCR 743		12 14 NCR 1234	*	Approve	04/15/98	*		13 01 NCR 43	
2 NCAC 34 0601	12 09 NCR 743		12 14 NCR 1234	*	Approve	04/15/98	*		13 01 NCR 43	
2 NCAC 34 0602		11 21 NCR 1651	12 06 NCR 455	*			*			
2 NCAC 34 0602	12 09 NCR 743		12 14 NCR 1234	*	Approve	04/15/98	*		13 01 NCR 43	
2 NCAC 34 0604		11 21 NCR 1651	12 06 NCR 455	*			*			
2 NCAC 34 0604	12 09 NCR 743		12 14 NCR 1234	*	Approve	04/15/98	*		13 01 NCR 43	
2 NCAC 34 0605		11 21 NCR 1651	12 06 NCR 455	*			*			
2 NCAC 34 0605	12 09 NCR 743		12 14 NCR 1234	*	Approve	04/15/98	*		13 01 NCR 43	
2 NCAC 34 0701	12 09 NCR 743		12 14 NCR 1234	*	Approve	04/15/98	*		13 01 NCR 43	
2 NCAC 34 0702	12 09 NCR 743		12 14 NCR 1234	*	Approve	04/15/98	*		13 01 NCR 43	
2 NCAC 34 0703	12 09 NCR 743		12 14 NCR 1234	*	Approve	04/15/98	*		13 01 NCR 43	
2 NCAC 34 0803	12 09 NCR 743		12 14 NCR 1234	*	Approve	04/15/98	*		13 01 NCR 43	
2 NCAC 34 0902	12 09 NCR 743		12 14 NCR 1234	*	Approve	04/15/98	*		13 01 NCR 43	
2 NCAC 34 0904	12 09 NCR 743		12 14 NCR 1234	*	Approve	04/15/98	*		13 01 NCR 43	
2 NCAC 34 1101	12 09 NCR 743		12 14 NCR 1234	*	Approve	04/15/98	*		13 01 NCR 43	

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21 NCAC 57A 0101	13 01 NCR 3
21 NCAC 57A 0102	13 01 NCR 3
21 NCAC 57A 0201	13 01 NCR 3

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21 NC AC 57A 0202	13 01 NCR 3									
21 NC AC 57A 0203	13 01 NCR 3									
21 NC AC 57A 0205	13 01 NCR 3									
21 NC AC 57A 0206	13 01 NCR 3									
21 NC AC 57A 0208	13 01 NCR 3									
21 NC AC 57A 0301	13 01 NCR 3									
21 NC AC 57A 0302	13 01 NCR 3									
21 NC AC 57A 0303	13 01 NCR 3									
21 NC AC 57A 0304	13 01 NCR 3									
21 NC AC 57A 0305	13 01 NCR 3									
21 NC AC 57A 0306	13 01 NCR 3									
21 NC AC 57A 0401	13 01 NCR 3									
21 NC AC 57A 0402	13 01 NCR 3									
21 NC AC 57A 0403	13 01 NCR 3									
21 NC AC 57A 0404	13 01 NCR 3									
21 NC AC 57A 0405	13 01 NCR 3									
21 NC AC 57A 0407	13 01 NCR 3									
21 NC AC 57A 0501	13 01 NCR 3									
ARCHITECTURE, BOARD OF										
21 NC AC 02 0208	12 04 NCR 244									
21 NC AC 02 0210	12 04 NCR 244									
21 NC AC 02 0904	12 04 NCR 244		12 09 NCR 795	S/I/SI	Object Approve	03/20/98	*		13 01 NCR 43	
21 NC AC 02 0906	12 04 NCR 244		12 09 NCR 795	S/I/SI	Object Approve	03/20/98	*		13 01 NCR 43	
ATHLETIC TRAINER EXAMINERS, BOARD OF										
21 NC AC 03 0101		12 18 NCR 1714	12 22 NCR 2007	S						
21 NC AC 03 0102		12 18 NCR 1714	12 22 NCR 2007	S						
21 NC AC 03 0103		12 18 NCR 1714	12 22 NCR 2007	S						
21 NC AC 03 0201		12 18 NCR 1714	12 22 NCR 2007	S						

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					Action	Date				
21 NCAC 03 .0301		12.18 NCR 1714	12.22 NCR 2007	S						
21 NCAC 03 .0302		12.18 NCR 1714	12.22 NCR 2007	S						
21 NCAC 03 .0303		12.18 NCR 1714	12.22 NCR 2007	S						
21 NCAC 03 .0304		12.18 NCR 1714	12.22 NCR 2007	S						
21 NCAC 03 .0401		12.18 NCR 1714	12.22 NCR 2007	S						
ATHLETIC TRAINER EXAMINERS/MEDICAL BOARD COMMITTEE										
21 NCAC 03 .0501		12.18 NCR 1714	12.22 NCR 2007	*						
CERTIFIED PUBLIC ACCOUNTANT EXAMINERS										
21 NCAC 08A .0301	12.08 NCR 619		12.13 NCR 1138	*	Approve	04/15/98	*		13.01 NCR 43	
21 NCAC 08A .0309	12.08 NCR 619		12.13 NCR 1138	*	Approve	04/15/98	*		13.01 NCR 43	
21 NCAC 08F .0103	12.08 NCR 619		12.13 NCR 1138	*	Approve	04/15/98	*		13.01 NCR 43	
21 NCAC 08F .0105	12.08 NCR 619		12.13 NCR 1138	*	Approve	04/15/98			13.01 NCR 43	
21 NCAC 08F .0302	12.08 NCR 619		12.13 NCR 1138	*	Approve	04/15/98	*		13.01 NCR 43	
21 NCAC 08F .0401	12.08 NCR 619		12.13 NCR 1138	*	Approve	04/15/98			13.01 NCR 43	
21 NCAC 08F .0410	12.08 NCR 619		12.13 NCR 1138	*	Approve	04/15/98			13.01 NCR 43	
21 NCAC 08G .0404	12.08 NCR 619		12.13 NCR 1138	*	Approve	04/15/98			13.01 NCR 43	
21 NCAC 08H .0001	12.08 NCR 619		12.13 NCR 1138	*	Approve	04/15/98	*		13.01 NCR 43	
21 NCAC 08I .0004	12.08 NCR 619		12.13 NCR 1138	*	Approve	04/15/98	*		13.01 NCR 43	
21 NCAC 08I .0005	12.08 NCR 619		12.13 NCR 1138	*	Approve	04/15/98			13.01 NCR 43	
21 NCAC 08J .0001	12.08 NCR 619		12.13 NCR 1138	*	Approve	04/15/98			13.01 NCR 43	
21 NCAC 08J .0005	12.08 NCR 619		12.13 NCR 1138	*	Approve	04/15/98	*		13.01 NCR 43	
21 NCAC 08J .0006	12.08 NCR 619		12.13 NCR 1138	*	Approve	04/15/98	*		13.01 NCR 43	
21 NCAC 08J .0008	12.08 NCR 619		12.13 NCR 1138	*	Approve	04/15/98			13.01 NCR 43	
21 NCAC 08J .0010	12.08 NCR 619		12.13 NCR 1138	*	Approve	04/15/98	*		13.01 NCR 43	
21 NCAC 08K .0301	12.08 NCR 619		12.13 NCR 1138	*	Approve	04/15/98			13.01 NCR 43	
21 NCAC 08M .0101	12.08 NCR 619		12.13 NCR 1138	*	Approve	04/15/98	*		13.01 NCR 43	
21 NCAC 08M .0102	12.08 NCR 619		12.13 NCR 1138	*	Approve	04/15/98	*		13.01 NCR 43	
21 NCAC 08M .0201	12.08 NCR 619		12.13 NCR 1138	*	Approve	04/15/98	*		13.01 NCR 43	

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CHIROPRACTIC										
21 NC/AC 08M 0204	12.08 NCR 619		12.13 NCR 1138	*	Approve	04/15/98	*		13.01 NCR 43	
21 NC/AC 10 0203		12.23 NCR 2098								
COMMERCE										
4 NC/AC 01H	11.09 NCR 569									
4 NC/AC 01F	11.09 NCR 569									
4 NC/AC 01H	11.09 NCR 569									
4 NC/AC 01H	11.09 NCR 569									
4 NC/AC 01J	11.09 NCR 569									
4 NC/AC 01K	11.09 NCR 569									
4 NC/AC 01K 0501	11.09 NCR 569									
4 NC/AC 01K 0502	11.09 NCR 569									
4 NC/AC 01K 0503	11.09 NCR 569									
4 NC/AC 01K 0504	11.09 NCR 569									
4 NC/AC 01K 0505	11.09 NCR 569									
4 NC/AC 01K 0506	11.09 NCR 569									
Community Assistance										
4 NC/AC 19I 0805	11.09 NCR 569									
4 NC/AC 19L 1900	11.09 NCR 569									
COSMETIC ART EXAMINERS										
21 NC/AC 14H 0105	12.06 NCR 453		12.11 NCR 925	*	Object Approve	03/20/98 04/15/98	*		13.01 NCR 43	
21 NC/AC 14I 0107	12.22 NCR 1981									
21 NC/AC 14J 0105	12.06 NCR 453		12.11 NCR 925	*						
21 NC/AC 14J 0501	12.06 NCR 453		12.11 NCR 925	*	Object Approve	03/20/98 04/15/98	*		13.01 NCR 43	
21 NC/AC 14K 0103	12.06 NCR 453		12.11 NCR 925	*	Object Approve	03/20/98 04/15/98	*		13.01 NCR 43	
21 NC/AC 14L 0105	12.06 NCR 453		12.11 NCR 925	*						
21 NC/AC 14N 0102	12.06 NCR 453		12.11 NCR 925	*	Object	03/20/98				

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21 NCAC 14N 0103 12-06 NCR 453

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21 NCAC 14N 0107 12-06 NCR 453

12-11 NCR 925

*

12-11 NCR 925

12-06 NCR 453

13-01 NCR 43

21 NCAC 14N 0113 12-06 NCR 453

12-11 NCR 925

*

12-11 NCR 925

12-06 NCR 453

13-01 NCR 43

CRIME CONTROL & PUBLIC SAFETY

Governor's Crime Commission

14A NCAC 07 0313 11-24 NCR 1818

12-01 NCR 6

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CULTURAL RESOURCES

North Carolina Historical Commission

7 NCAC 04R 0909 12-06 NCR 444

12-13 NCR 1174

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12-13 NCR 1174

12-06 NCR 444

13-01 NCR 43

7 NCAC 04R 0910 12-06 NCR 444

12-13 NCR 1174

S

12-13 NCR 1174

12-06 NCR 444

13-01 NCR 43

7 NCAC 04R 0911 12-06 NCR 444

12-13 NCR 1174

S

12-13 NCR 1174

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7 NCAC 04R 0912 12-06 NCR 444

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7 NCAC 04R 0913 12-06 NCR 444

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12-13 NCR 1174

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7 NCAC 04R 0914 12-06 NCR 444

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7 NCAC 04R 0915 12-06 NCR 444

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7 NCAC 05 0203

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12-16 NCR 1511

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21 NCAC 1611 0101 12-24 NCR 2203

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21 NCAC 1611 0102 12-24 NCR 2203

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21 NCAC 1611 0103 12-24 NCR 2203

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21 NCAC 1611 0104 12-24 NCR 2203

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21 NCAC 16H 0201	12-24 NCR 2203									
21 NCAC 16H 0202	12-24 NCR 2203									
21 NCAC 16H 0203	12-24 NCR 2203									
21 NCAC 16H 0204	12-24 NCR 2203									
21 NCAC 16H 0205	12-24 NCR 2203									
21 NCAC 16H 0206	12-24 NCR 2203									
21 NCAC 16I 0004	11-20 NCR 1538									
21 NCAC 16I 0005	11-20 NCR 1538									
21 NCAC 16Q 0101	12-24 NCR 2203									
21 NCAC 16Q 0201	12-24 NCR 2203									
21 NCAC 16Q 0301	12-24 NCR 2203									
21 NCAC 16R 0002	11-20 NCR 1538									
21 NCAC 16R 0003	11-20 NCR 1538									
21 NCAC 16R 0005	11-20 NCR 1538									
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21 NCAC 18B	12-22 NCR 1982									
21 NCAC 18B 0209	N/A	N/A	N/A		Approve	04/15/98			13-01 NCR 43	
21 NCAC 18B 0404	N/A	N/A	N/A		Approve	04/15/98			13-01 NCR 43	
21 NCAC 18B 0802	N/A	N/A	N/A		Approve	04/15/98			13-01 NCR 43	
EMPLOYEE ASSISTANCE PROFESSIONALS, BOARD OF										
21 NCAC 11 0101	12-19 NCR 1764	12-21 NCR 1884		S/L						
21 NCAC 11 0102	12-19 NCR 1764	12-21 NCR 1884		S/L						
21 NCAC 11 0103	12-19 NCR 1764	12-21 NCR 1884		S/L						
21 NCAC 11 0104	12-19 NCR 1764	12-21 NCR 1884		S/L						
21 NCAC 11 0105	12-19 NCR 1764	12-21 NCR 1884		S/L						
21 NCAC 11 0106	12-19 NCR 1764	12-21 NCR 1884		S/L						
21 NCAC 11 0107	12-19 NCR 1764	12-21 NCR 1884		S/L						
21 NCAC 11 0108	12-19 NCR 1764	12-21 NCR 1884		S/L						

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21 NCAC 11 .0109	12.19 NCR 1764	12.21 NCR 1884		S/L						
21 NCAC 11 .0110	12.19 NCR 1764	12.21 NCR 1884		S/L						
21 NCAC 11 .0111	12.19 NCR 1764	12.21 NCR 1884		S/L						
21 NCAC 11 .0112	12.19 NCR 1764	12.21 NCR 1884		S/L						
ENVIRONMENT AND NATURAL RESOURCES										
15A NCAC 01J .0401	12.08 NCR 614	12.09 NCR 833	12.14 NCR 1266	*	Approve	04/15/98			13.01 NCR 43	
15A NCAC 01J .0402	12.08 NCR 614	12.09 NCR 833	12.14 NCR 1266	*	Approve	04/15/98			13.01 NCR 43	
15A NCAC 01K	10.19 NCR 2506									
15A NCAC 01M .0101		11.19 NCR 1439	Temp Expired							
15A NCAC 01M .0102		11.19 NCR 1439	Temp Expired							
15A NCAC 01M .0201		11.19 NCR 1439	Temp Expired							
15A NCAC 01M .0202		11.19 NCR 1439	Temp Expired							
15A NCAC 01M .0301		11.19 NCR 1439	Temp Expired							
15A NCAC 01M .0302		11.19 NCR 1439	Temp Expired							
15A NCAC 01M .0303		11.19 NCR 1439	Temp Expired							
15A NCAC 01M .0304		11.19 NCR 1439	Temp Expired							
15A NCAC 01M .0305		11.19 NCR 1439	Temp Expired							
15A NCAC 01M .0306		11.19 NCR 1439	Temp Expired							
15A NCAC 01N .0101	12.08 NCR 614	12.16 NCR 1511								
15A NCAC 01N .0102	12.08 NCR 614	12.16 NCR 1511								
15A NCAC 01N .0103	12.08 NCR 614	12.16 NCR 1511								
15A NCAC 01N .0201	12.08 NCR 614	12.16 NCR 1511								
15A NCAC 01N .0202	12.08 NCR 614	12.16 NCR 1511								
15A NCAC 01N .0203	12.08 NCR 614	12.16 NCR 1511								
15A NCAC 01N .0301	12.08 NCR 614	12.16 NCR 1511								
15A NCAC 01N .0302	12.08 NCR 614	12.16 NCR 1511								
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15A NCAC 01N .0304	12.08 NCR 614	12.16 NCR 1511								

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15A NCAC 01N 0402	12-08 NCR 614	12-16 NCR 1511								
15A NCAC 01N 0403	12-08 NCR 614	12-16 NCR 1511								
15A NCAC 01N 0501	12-08 NCR 614	12-16 NCR 1511								
15A NCAC 01N 0502	12-08 NCR 614	12-16 NCR 1511								
15A NCAC 01N 0503	12-08 NCR 614	12-16 NCR 1511								
15A NCAC 01N 0601	12-08 NCR 614	12-16 NCR 1511								
15A NCAC 01N 0602	12-08 NCR 614	12-16 NCR 1511								
15A NCAC 01N 0603	12-08 NCR 614	12-16 NCR 1511								
15A NCAC 01N 0604	12-08 NCR 614	12-16 NCR 1511								
15A NCAC 01N 0605	12-08 NCR 614	12-16 NCR 1511								
15A NCAC 01N 0606	12-08 NCR 614	12-16 NCR 1511								
15A NCAC 01N 0701	12-08 NCR 614	12-16 NCR 1511								
15A NCAC 01N 0702	12-08 NCR 614	12-16 NCR 1511								
15A NCAC 01N 0703	12-08 NCR 614	12-16 NCR 1511								
15A NCAC 01N 0704	12-08 NCR 614	12-16 NCR 1511								
15A NCAC 01N 0705	12-08 NCR 614	12-16 NCR 1511								
15A NCAC 01N 0801	12-08 NCR 614	12-16 NCR 1511								
15A NCAC 01N 0802	12-08 NCR 614	12-16 NCR 1511								
15A NCAC 01N 0901	12-08 NCR 614	12-16 NCR 1511								
15A NCAC 01N 0902	12-08 NCR 614	12-16 NCR 1511								
15A NCAC 01O 0101	12-16 NCR 1482	12-17 NCR 1617								
15A NCAC 01O 0102	12-16 NCR 1482	12-17 NCR 1617								
15A NCAC 01O 0103	12-16 NCR 1482	12-17 NCR 1617								
15A NCAC 01O 0104	12-16 NCR 1482	12-17 NCR 1617								
15A NCAC 01O 0105	12-16 NCR 1482	12-17 NCR 1617								
15A NCAC 01O 0106	12-16 NCR 1482	12-17 NCR 1617								
15A NCAC 01O 0107	12-16 NCR 1482	12-17 NCR 1617								

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15A NCAC 010 .0108	12:16 NCR 1482	12:17 NCR 1617								
15A NCAC 010 .0109	12:16 NCR 1482	12:17 NCR 1617								
15A NCAC 12B .0901		12:03 NCR 209								
15A NCAC 19C .0206		12:15 NCR 1451								
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15A NCAC 07	11:04 NCR 183									
15A NCAC 07H .0208	11:19 NCR 1408		11:27 NCR 2058	*						
15A NCAC 07H .0208	12:21 NCR 1873									
15A NCAC 07H .0209	12:21 NCR 1873									
15A NCAC 07H .0210	12:02 NCR 52									
15A NCAC 07H .0306	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .0306	12:19 NCR 1763									
15A NCAC 07H .0308	12:16 NCR 1489		13:01 NCR 26	S						
15A NCAC 07H .0310	12:11 NCR 919		12:20 NCR 1828	S						
15A NCAC 07H .1100	12:21 NCR 1873									
15A NCAC 07H .1200	12:21 NCR 1873									
15A NCAC 07H .1300	12:21 NCR 1873									
15A NCAC 07H .1400	12:21 NCR 1873									
15A NCAC 07H .1500	12:21 NCR 1873									
15A NCAC 07H .1600	12:21 NCR 1873									
15A NCAC 07H .1600	11:15 NCR 1200									
15A NCAC 07H .1601	11:15 NCR 1200		11:27 NCR 2071	*	Approve	04/15/98			13:01 NCR 43	
15A NCAC 07H .1604	11:15 NCR 1200		11:27 NCR 2071	*	Approve	04/15/98	*		13:01 NCR 43	
15A NCAC 07H .1605	11:15 NCR 1200		11:27 NCR 2071	*	Approve	04/15/98	*		13:01 NCR 43	
15A NCAC 07H .1700	12:21 NCR 1873									
15A NCAC 07H .1705	12:16 NCR 1489		13:01 NCR 26	S						
15A NCAC 07H .0200	12:24 NCR 2202									
15A NCAC 07H .0405	12:24 NCR 2202									

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15A NCAC 07K .0203	12.21 NCR 1873									
15A NCAC 07K .0208	12.21 NCR 1873									
15A NCAC 07L .0202	12.21 NCR 1874									
15A NCAC 07L .0203	12.21 NCR 1874									
15A NCAC 07L .0206	12.21 NCR 1874									
15A NCAC 07L .0302	12.21 NCR 1874									
15A NCAC 07L .0304	12.21 NCR 1874									
15A NCAC 07L .0401	12.21 NCR 1874									
15A NCAC 07L .0405	12.21 NCR 1874									
15A NCAC 07M .0300	12.24 NCR 2202									
Environmental Management Commission										
15A NCAC 02	10.24 NCR 3045									
15A NCAC 02	11.04 NCR 183									
15A NCAC 02	11.19 NCR 1408									
15A NCAC 02B .0101	11.24 NCR 1818			*						
15A NCAC 02B .0202	11.24 NCR 1818			*						
15A NCAC 02B .0223	11.02 NCR 75									
15A NCAC 02B .0223	11.03 NCR 109									
15A NCAC 02B .0227	10.18 NCR 2400			*						
15A NCAC 02B .0230	11.24 NCR 1818			*						
15A NCAC 02B .0231	11.02 NCR 75			I/S/E						
15A NCAC 02B .0233	11.02 NCR 75			I	Object Approve	01/15/98 02/19/98	*		12.22 NCR 2012	
	12.02 NCR 77 12.14 NCR 1348 12.20 NCR 1836			I						
15A NCAC 02B .0308	12.12 NCR 993			S/I/S/E * I						

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15A NCAC 02B .0308	12.14 NCR 1233		12.19 NCR 1769	*						
15A NCAC 02B .0308	12.16 NCR 1489									
15A NCAC 02B .0309	12.14 NCR 1233		12.19 NCR 1769	*						
15A NCAC 02B .0311	12.10 NCR 865		12.20 NCR 1825	*						
15A NCAC 02B .0311	12.23 NCR 2088									
15A NCAC 02B .0313	12.10 NCR 865		12.20 NCR 1825	*						
15A NCAC 02B .0316	11.26 NCR 1976		12.01 NCR 6	*	Approve	01/15/98	*		12.21 NCR 1886	Extend Com. Period 12.13 NCR 1095
15A NCAC 02D .0101	12.02 NCR 52									
15A NCAC 02D .0101	12.16 NCR 1482									
15A NCAC 02D .0105	N/A	N/A	N/A		Approve	04/15/98			13.01 NCR 43	
15A NCAC 02D .0108	11.15 NCR 1200									
15A NCAC 02D .0307	11.15 NCR 1200									
15A NCAC 02D .0405	12.16 NCR 1482									
15A NCAC 02D .0409	12.16 NCR 1482									
15A NCAC 02D .0410	12.16 NCR 1482									
15A NCAC 02D .0501	10.18 NCR 2318		12.22 NCR 1983	*						
15A NCAC 02D .0501	11.15 NCR 1200									
15A NCAC 02D .0501	11.04 NCR 183									
15A NCAC 02D .0518	11.19 NCR 1408									
15A NCAC 02D .0521	11.15 NCR 1200									
15A NCAC 02D .0524	11.15 NCR 1200									
15A NCAC 02D .0525	11.15 NCR 1200									
15A NCAC 02D .0535	10.18 NCR 2317		12.08 NCR 650	*	Approve	04/15/98	*		13.01 NCR 43	
15A NCAC 02D .0601	10.18 NCR 2318		12.22 NCR 1983	*						
15A NCAC 02D .0602	10.18 NCR 2318		12.22 NCR 1983	*						
15A NCAC 02D .0604	10.18 NCR 2318		12.22 NCR 1983	*						
15A NCAC 02D .0605	10.18 NCR 2318		12.22 NCR 1983	*						
15A NCAC 02D .0606	10.18 NCR 2318		12.22 NCR 1983	*						

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15A NC AC 02D 0607	10 18 NC R 2318		12 22 NC R 1983	*						
15A NC AC 02D 0608	10 18 NC R 2318		12 22 NC R 1983	*						
15A NC AC 02D 0610	10 18 NC R 2318		12 22 NC R 1983	*						
15A NC AC 02D 0610	11 15 NC R 1200									
15A NC AC 02D 0611	10 18 NC R 2318		12 22 NC R 1983	*						
15A NC AC 02D 0611	11 15 NC R 1200									
15A NC AC 02D 0612	10 18 NC R 2318		12 22 NC R 1983	*						
15A NC AC 02D 0612	11 15 NC R 1200									
15A NC AC 02D 0613	10 18 NC R 2318		12 22 NC R 1983	*						
15A NC AC 02D 0613	11 15 NC R 1200									
15A NC AC 02D 0614	10 18 NC R 2318		12 22 NC R 1983	*						
15A NC AC 02D 0614	11 15 NC R 1200									
15A NC AC 02D 0615	10 18 NC R 2318		12 22 NC R 1983	*						
15A NC AC 02D 0615	11 15 NC R 1200									
15A NC AC 02D 0806	11 26 NC R 1976									
15A NC AC 02D 0902	11 19 NC R 1408									
15A NC AC 02D 0903	10 18 NC R 2318		12 22 NC R 1983	*						
15A NC AC 02D 0903	11 15 NC R 1200									
15A NC AC 02D 0909	11 19 NC R 1408									
15A NC AC 02D 0912	11 15 NC R 1200									
15A NC AC 02D 0917	11 19 NC R 1408									
15A NC AC 02D 0918	11 19 NC R 1408									
15A NC AC 02D 0919	11 19 NC R 1408									
15A NC AC 02D 0920	11 19 NC R 1408									
15A NC AC 02D 0921	11 19 NC R 1408									
15A NC AC 02D 0922	11 19 NC R 1408									
15A NC AC 02D 0923	11 19 NC R 1408									
15A NC AC 02D 0924	11 19 NC R 1408									

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					Action	Date				
15A NCAC 02D .0927	10:18 NCR 2317		12:08 NCR 650	*	Approve	04/15/98			13:01 NCR 43	
15A NCAC 02D .0934	11:19 NCR 1408									
15A NCAC 02D .0948	11:19 NCR 1408									
15A NCAC 02D .0949	11:19 NCR 1408									
15A NCAC 02D .0950	11:19 NCR 1408									
15A NCAC 02D .0951	11:19 NCR 1408									
15A NCAC 02D .0952	12:16 NCR 1482									
15A NCAC 02D .0954	11:15 NCR 1200									
15A NCAC 02D .1100	11:08 NCR 442									
15A NCAC 02D .1102	11:08 NCR 442		12:08 NCR 650	SE	Approve	04/15/98			13:01 NCR 43	
15A NCAC 02D .1103	11:08 NCR 442		12:08 NCR 650	SE	Approve	04/15/98	*		13:01 NCR 43	
15A NCAC 02D .1104	11:08 NCR 442		12:08 NCR 650	SE	Approve	04/15/98	*		13:01 NCR 43	
15A NCAC 02D .1104	12:02 NCR 52	12:02 NCR 77								
15A NCAC 02D .1105	10:18 NCR 2318		12:22 NCR 1983	*						
15A NCAC 02D .1105	11:15 NCR 1200									
15A NCAC 02D .1106	11:08 NCR 442		12:08 NCR 650	SE	Approve	04/15/98	*		13:01 NCR 43	
15A NCAC 02D .1106	11:26 NCR 1976									
15A NCAC 02D .1200	12:16 NCR 1482									
15A NCAC 02D .1201	10:18 NCR 2317		12:08 NCR 650	*	Approve	04/15/98			13:01 NCR 43	
15A NCAC 02D .1203	11:15 NCR 1200									
15A NCAC 02D .1204	10:18 NCR 2318		12:22 NCR 1983	*						
15A NCAC 02D .1204	12:16 NCR 1482									
15A NCAC 02D .1205	10:18 NCR 2317		12:08 NCR 650	*	Approve	04/15/98			13:01 NCR 43	
15A NCAC 02D .1404	10:18 NCR 2318		12:22 NCR 1983	*						
15A NCAC 02D .1404	11:15 NCR 1200									
15A NCAC 02D .1500	11:19 NCR 1408									
15A NCAC 02D .1500	12:20 NCR 1817									

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15A NCAC 02D .1700	12.02 NCR 52									
15A NCAC 02D .1903	12.16 NCR 1482									
15A NCAC 02D .1904	12.16 NCR 1482									
15A NCAC 02D .2200	11.26 NCR 1976									
15A NCAC 02H .0226	12.20 NCR 1817									
15A NCAC 02H .0610	10.18 NCR 2317			*						
15A NCAC 02H .0610	11.08 NCR 442		12.08 NCR 650							
15A NCAC 02H .0610	12.02 NCR 52	12.02 NCR 77								
15A NCAC 02H .1202	11.15 NCR 1200									
15A NCAC 02H .1203	11.15 NCR 1200									
15A NCAC 02H .1204	11.15 NCR 1200									
15A NCAC 02H .1205	11.15 NCR 1200									
15A NCAC 02L	11.15 NCR 1200 11.15 NCR 1204									
15A NCAC 02L .0106		12.08 NCR 713								
15A NCAC 02L .0115	11.15 NCR 1204	12.08 NCR 713								
15A NCAC 02L .0202	10.20 NCR 2591									
15A NCAC 02N	11.15 NCR 1200									
15A NCAC 02N	11.15 NCR 1204									
15A NCAC 02P	11.15 NCR 1200									
15A NCAC 02P .0402	11.15 NCR 1204	12.08 NCR 713								
15A NCAC 02Q .0101	10.18 NCR 2317		12.08 NCR 650	*	Approve	04/15/98			13.01 NCR 43	
15A NCAC 02Q .0102	10.18 NCR 2317		12.08 NCR 650	*	Approve	04/15/98			13.01 NCR 43	
15A NCAC 02Q .0102			11.06 NCR 350	*						
15A NCAC 02Q .0102	11.19 NCR 1408									
15A NCAC 02Q .0102	12.02 NCR 52									
15A NCAC 02Q .0102	12.16 NCR 1482									
15A NCAC 02Q .0103	12.16 NCR 1482									
15A NCAC 02Q .0103	12.20 NCR 1817									
15A NCAC 02Q .0107	12.16 NCR 1482									

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15A NCAC 02Q .0300	11-26 NCR 1976									
15A NCAC 02Q .0300	12-20 NCR 1817									
15A NCAC 02Q .0301	10-18 NCR 2317		12-08 NCR 650	*	Approve	04/15/98			13-01 NCR 43	
15A NCAC 02Q .0400	12-04 NCR 240									
15A NCAC 02Q .0500	12-20 NCR 1817									
15A NCAC 02Q .0501	10-18 NCR 2317		12-08 NCR 650	*	Approve	04/15/98			13-01 NCR 43	
15A NCAC 02Q .0700	11-08 NCR 442									
15A NCAC 02Q .0701	11-08 NCR 442		12-08 NCR 650	SE	Approve	04/15/98	*		13-01 NCR 43	
15A NCAC 02Q .0702	11-08 NCR 442		12-08 NCR 650	SE	Approve	04/15/98	*		13-01 NCR 43	
15A NCAC 02Q .0703	11-08 NCR 442		12-08 NCR 650	SE	Approve	04/15/98			13-01 NCR 43	
15A NCAC 02Q .0704	11-08 NCR 442		12-08 NCR 650	SE	Approve	04/15/98			13-01 NCR 43	
15A NCAC 02Q .0705	11-08 NCR 442		12-08 NCR 650	SE	Approve	04/15/98	*		13-01 NCR 43	
15A NCAC 02Q .0706	11-08 NCR 442		12-08 NCR 650	SE	Approve	04/15/98			13-01 NCR 43	
15A NCAC 02Q .0707	11-08 NCR 442		12-08 NCR 650	SE	Approve	04/15/98	*		13-01 NCR 43	
15A NCAC 02Q .0708	11-08 NCR 442		12-08 NCR 650	SE	Approve	04/15/98	*		13-01 NCR 43	
15A NCAC 02Q .0709	11-08 NCR 442		12-08 NCR 650	SE	Approve	04/15/98	*		13-01 NCR 43	
15A NCAC 02Q .0710	11-08 NCR 442		12-08 NCR 650	SE	Approve	04/15/98			13-01 NCR 43	
15A NCAC 02Q .0711	11-08 NCR 442		12-08 NCR 650	SE	Approve	04/15/98			13-01 NCR 43	
15A NCAC 02Q .0712	11-08 NCR 442		12-08 NCR 650	SE	Approve	04/15/98			13-01 NCR 43	
15A NCAC 02Q .0713	11-08 NCR 442		12-08 NCR 650	SE	Approve	04/15/98			13-01 NCR 43	
15A NCAC 02Q .0801	12-02 NCR 52									
15A NCAC 02Q .0803	12-02 NCR 52									
15A NCAC 02Q .0808	12-16 NCR 1482									
15A NCAC 02R .0101	12-02 NCR 52		12-14 NCR 1267	*	Approve	04/15/98	*		13-01 NCR 43	
15A NCAC 02R .0102	12-02 NCR 52		12-14 NCR 1267	*	Approve	04/15/98	*		13-01 NCR 43	
15A NCAC 02R .0201	12-02 NCR 52		12-14 NCR 1267	*	Approve	04/15/98	*		13-01 NCR 43	
15A NCAC 02R .0202	12-02 NCR 52		12-14 NCR 1267	S	Approve	04/15/98	*		13-01 NCR 43	
15A NCAC 02R .0203	12-02 NCR 52		12-14 NCR 1267	S	Approve	04/15/98	*		13-01 NCR 43	

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15A NCAC 02R 0204	12 02 NCR 52		12 14 NCR 1267	S						
15A NCAC 02R 0205	12 02 NCR 52		12 14 NCR 1267	S						
15A NCAC 02R 0301	12 02 NCR 52		12 14 NCR 1267	*	Approve	04/15/98	*		13 01 NCR 43	
15A NCAC 02R 0302	12 02 NCR 52		12 14 NCR 1267	S	Approve	04/15/98	*		13 01 NCR 43	
15A NCAC 02R 0401	12 02 NCR 52		12 14 NCR 1267	S	Approve	04/15/98	*		13 01 NCR 43	
15A NCAC 02R 0402	12 02 NCR 52		12 14 NCR 1267	S	Approve	04/15/98	*		13 01 NCR 43	
15A NCAC 02R 0403	12 02 NCR 52		12 14 NCR 1267	S	Approve	04/15/98	*		13 01 NCR 43	
15A NCAC 02R 0501	12 02 NCR 52		12 14 NCR 1267	S	Approve	04/15/98	*		13 01 NCR 43	
15A NCAC 02R 0502		11 27 NCR 2075	12 14 NCR 1267	*	Approve	04/15/98	*		13 01 NCR 43	
15A NCAC 02R 0503		11 27 NCR 2075	12 14 NCR 1267	*	Approve	04/15/98	*		13 01 NCR 43	
15A NCAC 02R 0504		11 27 NCR 2075	12 14 NCR 1267	*	Approve	04/15/98	*		13 01 NCR 43	
15A NCAC 02R 0600	12 02 NCR 52									
Health Services, Commission for										
15A NCAC 13A 0100	12 02 NCR 52			*						
15A NCAC 13A 0109	12 07 NCR 509		12 22 NCR 2000	*						
15A NCAC 13A 0110	12 07 NCR 509		12 22 NCR 2000	*						
15A NCAC 13A 0111	12 07 NCR 509		12 22 NCR 2000	*						
15A NCAC 13B 1301		12 12 NCR 1064	12 24 NCR 2211	*						
15A NCAC 13B 1624	11 19 NCR 1764		12 24 NCR 2211	I						
15A NCAC 13B 1627	11 08 NCR 442		11 13 NCR 1055	*						
15A NCAC 13B 1800	11 08 NCR 442									
15A NCAC 13B 1800	11 26 NCR 1976									
15A NCAC 16A 0101	12 22 NCR 1979									
15A NCAC 16A 0106	12 22 NCR 1979									
15A NCAC 16A 0108	12 22 NCR 1979									
15A NCAC 18A	11 04 NCR 183									
15A NCAC 18A 0425		12 14 NCR 1352								
15A NCAC 18A 0432		12 14 NCR 1352								

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15A NCAC 18A .1601		12.21 NCR 1882								
15A NCAC 18A .1611		12.21 NCR 1882								
15A NCAC 18A .1720	12.16 NCR 1482	12.18 NCR 1713								
		12.21 NCR 1882								
		12.24 NCR 2228								
15A NCAC 18A .1810		12.24 NCR 2228								
15A NCAC 18A .2308	12.03 NCR 168		12.07 NCR 519	*	Ext. Review Object	12/18/97 01/15/98				
15A NCAC 18A .2309	12.03 NCR 168		12.07 NCR 519	*	Ext. Review Object	12/18/97 01/15/98				
15A NCAC 18A .2508	12.08 NCR 614		13.01 NCR 31	*						
15A NCAC 18A .2513	12.08 NCR 614		13.01 NCR 31	*						
15A NCAC 18A .2515	12.08 NCR 614		13.01 NCR 31	*						
15A NCAC 18A .2517	12.08 NCR 614		13.01 NCR 31	*						
15A NCAC 18A .2518	12.08 NCR 614		13.01 NCR 31	*						
15A NCAC 18A .2522	12.08 NCR 614		13.01 NCR 31	*						
15A NCAC 18A .2526	12.08 NCR 614		13.01 NCR 31	*						
15A NCAC 18A .2528	12.08 NCR 614		13.01 NCR 31	*						
15A NCAC 18A .2530	12.08 NCR 614		13.01 NCR 31	*						
15A NCAC 18A .2531	12.08 NCR 614		13.01 NCR 31	*						
15A NCAC 18A .2532	12.08 NCR 614		13.01 NCR 31	*						
15A NCAC 18A .2533	12.08 NCR 614		13.01 NCR 31	*						
15A NCAC 18A .2537	12.08 NCR 614		13.01 NCR 31	*						
15A NCAC 18A .2539	12.08 NCR 614		13.01 NCR 31	*						
15A NCAC 18A .2543	12.08 NCR 614		13.01 NCR 31	*						
15A NCAC 18A .2600	12.04 NCR 240		13.01 NCR 31	*						
15A NCAC 18A .2612		12.14 NCR 1352								
15A NCAC 18A .2801	12.16 NCR 1482	12.19 NCR 1782								
15A NCAC 18A .2802	12.16 NCR 1482	12.19 NCR 1782								
15A NCAC 18A .2803	12.16 NCR 1482	12.19 NCR 1782								
15A NCAC 18A .2804	12.16 NCR 1482	12.19 NCR 1782								

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15A NCAC 18A 2805	12.16 NCR 1482									
15A NCAC 18A 2806	12.16 NCR 1482									
15A NCAC 18A 2807	12.16 NCR 1482									
15A NCAC 18A 2808	12.16 NCR 1482									
15A NCAC 18A 2809	12.16 NCR 1482									
15A NCAC 18A 2810	12.16 NCR 1482	12.19 NCR 1782								
15A NCAC 18A 2811	12.16 NCR 1482									
15A NCAC 18A 2812	12.16 NCR 1482	12.19 NCR 1782								
15A NCAC 18A 2813	12.16 NCR 1482	12.19 NCR 1782								
15A NCAC 18A 2814	12.16 NCR 1482									
15A NCAC 18A 2815	12.16 NCR 1482	12.19 NCR 1782								
15A NCAC 18A 2816	12.16 NCR 1482									
15A NCAC 18A 2817	12.16 NCR 1482									
15A NCAC 18A 2818	12.16 NCR 1482									
15A NCAC 18A 2819	12.16 NCR 1482	12.19 NCR 1782								
15A NCAC 18A 2820	12.16 NCR 1482									
15A NCAC 18A 2821	12.16 NCR 1482									
15A NCAC 18A 2822	12.16 NCR 1482	12.19 NCR 1782								
15A NCAC 18A 2823	12.16 NCR 1482	12.19 NCR 1782								
15A NCAC 18A 2824	12.16 NCR 1482									
15A NCAC 18A 2825	12.16 NCR 1482									
15A NCAC 18A 2826	12.16 NCR 1482									
15A NCAC 18A 2827	12.16 NCR 1482	12.19 NCR 1782								
15A NCAC 18A 2828	12.16 NCR 1482									
15A NCAC 18A 2829	12.16 NCR 1482									
15A NCAC 18A 2830	12.16 NCR 1482	12.19 NCR 1782								
15A NCAC 18A 2831	12.16 NCR 1482	12.19 NCR 1782								
15A NCAC 18A 2832	12.16 NCR 1482									

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15A NCAC 18A .2833	12.16 NCR 1482	12.19 NCR 1782								
15A NCAC 18A .2834	12.16 NCR 1482	12.19 NCR 1782								
15A NCAC 18A .2835	12.16 NCR 1482									
15A NCAC 18A .2836	12.16 NCR 1482									
15A NCAC 18A .3101	12.11 NCR 920	12.12 NCR 1064	12.20 NCR 1829	S						
15A NCAC 18A .3102	12.11 NCR 920	12.12 NCR 1064	12.20 NCR 1829	S						
15A NCAC 18A .3103	12.11 NCR 920	12.12 NCR 1064	12.20 NCR 1829	S						
15A NCAC 18A .3104	12.11 NCR 920	12.12 NCR 1064	12.20 NCR 1829	S						
15A NCAC 18A .3105	12.11 NCR 920	12.12 NCR 1064	12.20 NCR 1829	S						
15A NCAC 18A .3106	12.11 NCR 920	12.12 NCR 1064	12.20 NCR 1829	S						
15A NCAC 18A .3107	12.11 NCR 920	12.12 NCR 1064	12.20 NCR 1829	S						
15A NCAC 18A .3108	12.11 NCR 920	12.12 NCR 1064	12.20 NCR 1829	S						
15A NCAC 18A .3109	12.11 NCR 920	12.12 NCR 1064	12.20 NCR 1829	S						
15A NCAC 18A .3110	12.11 NCR 920	12.12 NCR 1064	12.20 NCR 1829	S						
15A NCAC 18A .3111	12.11 NCR 920	12.12 NCR 1064	12.20 NCR 1829	S						
15A NCAC 19A .0101	12.02 NCR 52	12.02 NCR 88								
15A NCAC 21H .0110	12.20 NCR 1822									
15A NCAC 21H .0111	12.20 NCR 1822									
15A NCAC 21H .0113	12.20 NCR 1822									
15A NCAC 24A .0101	12.22 NCR 1979									
15A NCAC 24A .0102	12.22 NCR 1979									
15A NCAC 24A .0302	12.22 NCR 1979									
15A NCAC 24A .0403	12.22 NCR 1979									
15A NCAC 26C .0001	11.19 NCR 1408									
15A NCAC 26C .0002	11.19 NCR 1408									
15A NCAC 26C .0003	11.19 NCR 1408									
15A NCAC 26C .0004	11.19 NCR 1408									
15A NCAC 26C .0005	11.19 NCR 1408									

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15A NCAC 26C 0006 11 19 NCR 1408

15A NCAC 26C 0007 11 19 NCR 1408

Land Resources/Land Quality

15A NCAC 04B 0006 12 20 NCAC 1817

15A NCAC 04B 0007 12 20 NCAC 1817

15A NCAC 04B 0027 12 20 NCAC 1817

Marine Fisheries Commission

15A NCAC 03 11 11 NCR 881

15A NCAC 03 11 20 NCR 1537

15A NCAC 03 11 26 NCR 1985

15A NCAC 03H 0103 12 23 NCR 2089

15A NCAC 03I 12 23 NCR 2089

15A NCAC 03I 0107 12 23 NCR 2089

15A NCAC 03I 0109 12 23 NCR 2089

15A NCAC 03I 0202 11 07 NCR 407

15A NCAC 03I 0202 11 26 NCR 1976

15A NCAC 03L 0102 11 07 NCR 407

15A NCAC 03M 0503 12 19 NCR 1762

15A NCAC 03M 0507 12 23 NCR 2089

15A NCAC 03M 0507 12 23 NCR 2094

15A NCAC 03M 0513 11 26 NCR 1976

15A NCAC 03M 0513 11 26 NCR 1985

15A NCAC 03O 0303

15A NCAC 03O 0306

15A NCAC 03P 12 23 NCR 2089

15A NCAC 03P 12 23 NCR 2089

Parks and Recreation Commission

15A NCAC 12A 0001 12 13 NCR 1097

15A NCAC 12A 0004 12 13 NCR 1097

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15A NCAC 12A .0005	12.13 NCR 1097									
15A NCAC 12B .0101	12.13 NCR 1097									
15A NCAC 12B .0104	12.13 NCR 1097									
15A NCAC 12B .0106	12.13 NCR 1097									
15A NCAC 12B .0203	12.13 NCR 1097									
15A NCAC 12B .0401	12.13 NCR 1097									
15A NCAC 12B .0402	12.13 NCR 1097									
15A NCAC 12B .0501	12.13 NCR 1097									
15A NCAC 12B .0602	12.13 NCR 1097									
15A NCAC 12B .0701	12.13 NCR 1097									
15A NCAC 12B .0702	12.13 NCR 1097									
15A NCAC 12B .0802	12.13 NCR 1097									
15A NCAC 12B .0901	12.13 NCR 1097									
15A NCAC 12B .1001	12.13 NCR 1097									
15A NCAC 12B .1004	12.13 NCR 1097									
15A NCAC 12B .1102	12.13 NCR 1097									
15A NCAC 12B .1201	12.13 NCR 1097									
Radiation Protection										
15A NCAC 11 .0100	12.22 NCR 1979									
15A NCAC 11 .0300	12.22 NCR 1979									
15A NCAC 11 .0500	12.22 NCR 1979									
15A NCAC 11 .0700	12.22 NCR 1979									
15A NCAC 11 .1000	12.22 NCR 1979									
15A NCAC 11 .1100	12.04 NCR 240									
15A NCAC 11 .1400	12.04 NCR 240									
15A NCAC 11 .1600	12.22 NCR 1979									
Soil & Water Conservation										

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15A NC'AC' 064- 0105	12 20 NCR 1817		13 01 NCR 25	*						
Water Pollution Control System Operators Certification Commission										
15A NC'AC' 08A	11 26 NCR 1976									
15A NC'AC' 08B	11 26 NCR 1976									
15A NC'AC' 08C	11 26 NCR 1976									
15A NC'AC' 08D	11 26 NCR 1976									
15A NC'AC' 08E	11 26 NCR 1976									
15A NC'AC' 08F	11 26 NCR 1976									
Wildlife Resources Commission										
15A NC'AC' 10B 0113	12 06 NCR 445		12 12 NCR 1004	*	Approve	04/15/98	*		13 01 NCR 43	
15A NC'AC' 10B 0200	12 06 NCR 445									
15A NC'AC' 10B 0202	12 06 NCR 445		12 12 NCR 1004	*	Approve	04/15/98	*		13 01 NCR 43	
15A NC'AC' 10B 0203	12 06 NCR 445		12 12 NCR 1004	*	Approve	04/15/98	*		13 01 NCR 43	
15A NC'AC' 10B 0207	12 06 NCR 445		12 24 NCR 2205	*						
15A NC'AC' 10B 0209	12 06 NCR 445		12 12 NCR 1004	*	Approve	04/15/98	*		13 01 NCR 43	
15A NC'AC' 10B 0216	12 06 NCR 445		12 12 NCR 1004	*	Approve	04/15/98	*		13 01 NCR 43	
15A NC'AC' 10C' 0203	12 06 NCR 445		12 12 NCR 1004	*	Approve	04/15/98	*		13 01 NCR 43	
15A NC'AC' 10C' 0205	12 06 NCR 445		12 12 NCR 1004	*	Approve	04/15/98	*		13 01 NCR 43	
15A NC'AC' 10C' 0212	12 06 NCR 445		12 12 NCR 1004	*	Approve	04/15/98	*		13 01 NCR 43	
15A NC'AC' 10C' 0300	13 01 NCR 3									
15A NC'AC' 10C' 0304	12 06 NCR 445		12 12 NCR 1004	*	Approve	04/15/98			13 01 NCR 43	
15A NC'AC' 10C' 0305	12 06 NCR 445		12 12 NCR 1004	*	Approve	04/15/98			13 01 NCR 43	
15A NC'AC' 10C' 0400	13 01 NCR 3									
15A NC'AC' 10C' 0401	12 06 NCR 445		12 12 NCR 1004	*	Approve	04/15/98	*		13 01 NCR 43	
15A NC'AC' 10C' 0402	12 06 NCR 445		12 12 NCR 1004	*	Approve	04/15/98			13 01 NCR 43	
15A NC'AC' 10C' 0404	12 06 NCR 445		12 12 NCR 1004	*						
15A NC'AC' 10C' 0407	12 06 NCR 445		12 12 NCR 1004	*	Approve	04/15/98			13 01 NCR 43	
15A NC'AC' 10D	12 18 NCR 1694									

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15A NCAC 10D .0002	12.06 NCR 445		12.12 NCR 1004	*	Approve	04/15/98	*		13.01 NCR 43	
15A NCAC 10D .0003	12.06 NCR 445		12.12 NCR 1004	*	Approve	04/15/98	*		13.01 NCR 43	
15A NCAC 10D .0003	12.18 NCR 1694		12.24 NCR 2205	*						
15A NCAC 10D .0004	12.06 NCR 445		12.12 NCR 1004	*	Approve	04/15/98	*		13.01 NCR 43	
15A NCAC 10F .0102	12.06 NCR 445		12.12 NCR 1004	*	Approve	04/15/98	*		13.01 NCR 43	
15A NCAC 10F .0103	12.06 NCR 445		12.12 NCR 1004	*	Approve	04/15/98	*		13.01 NCR 43	
15A NCAC 10F .0104	12.06 NCR 445		12.12 NCR 1004	*	Approve	04/15/98	*		13.01 NCR 43	
15A NCAC 10F .0105	12.06 NCR 445		12.12 NCR 1004	*	Approve	04/15/98	*		13.01 NCR 43	
15A NCAC 10F .0109	12.06 NCR 445		12.12 NCR 1004	*	Approve	04/15/98	*		13.01 NCR 43	
15A NCAC 10F .0301	12.19 NCR 1763	12.24 NCR 2224	12.12 NCR 1004	*	Approve	04/15/98			13.01 NCR 43	
15A NCAC 10F .0303	12.19 NCR 1763		12.24 NCR 2224	*	Approve	04/15/98			13.01 NCR 43	
15A NCAC 10F .0303	N/A		N/A		Approve	05/21/98				
15A NCAC 10F .0305	12.10 NCR 865	12.16 NCR 1518	12.16 NCR 1518	*						
15A NCAC 10F .0310	12.19 NCR 1763	12.24 NCR 2224	12.24 NCR 2224	I						
15A NCAC 10F .0311	12.11 NCR 920	12.24 NCR 2224	12.17 NCR 1608	I						
15A NCAC 10F .0314	12.19 NCR 1763									
15A NCAC 10F .0317	12.11 NCR 920	12.24 NCR 2224	12.17 NCR 1608	I						
15A NCAC 10F .0318	12.06 NCR 445									
15A NCAC 10F .0327	12.11 NCR 920	12.24 NCR 2224	12.17 NCR 1608	I						
15A NCAC 10F .0345	12.06 NCR 445	12.19 NCR 1781	12.12 NCR 1004	*	Approve	04/15/98			13.01 NCR 43	
15A NCAC 10F .0347	12.06 NCR 445	12.19 NCR 1781	12.12 NCR 1004	*	Approve	04/15/98			13.01 NCR 43	
15A NCAC 10F .0359	12.19 NCR 1763									
15A NCAC 10G .0402	12.06 NCR 445		12.12 NCR 1004	*	Approve	04/15/98			13.01 NCR 43	
15A NCAC 10G .0403	12.06 NCR 445		12.12 NCR 1004	*	Approve	04/15/98			13.01 NCR 43	
15A NCAC 10G .0404	12.06 NCR 445		12.12 NCR 1004	*	Extend Review	04/15/98				
15A NCAC 10I .0802	12.06 NCR 445		12.13 NCR 1127	*	Approve	04/15/98	*		13.01 NCR 43	
15A NCAC 10I .0810	12.06 NCR 445		12.13 NCR 1137	*	Approve	04/15/98	*		13.01 NCR 43	

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GENERAL CONTRACTORS LICENSING BOARD

21 NCAC 12 0201 11 28 NCR 2117 12 04 NCR 292 * Approve 04/15/98 * 13 01 NCR 43

21 NCAC 12 0503 11 28 NCR 2117

21 NCAC 12 0504 11 28 NCR 2117

21 NCAC 12 0902 11 28 NCR 2117

21 NCAC 12 0905 11 28 NCR 2117

21 NCAC 12 0906 11 28 NCR 2117

21 NCAC 12 0907 11 28 NCR 2117

21 NCAC 12 0908 11 28 NCR 2117

21 NCAC 12 0909 11 28 NCR 2117

21 NCAC 12 0910 11 28 NCR 2117

21 NCAC 12 0911 11 28 NCR 2117

21 NCAC 12 0912 11 28 NCR 2117

GOVERNOR'S EXECUTIVE ORDERS

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HEALTH AND HUMAN SERVICES

10 NCAC 49B 0315

12 18 NCR 1703

Aging

10 NCAC 22 10 23 NCR 2956

Child Day Care Commission

10 NCAC 03U 0102 12 21 NCR 1873

10 NCAC 03U 0300 12 21 NCR 1873

10 NCAC 03U 0302 12 08 NCR 617

10 NCAC 03U 0602 11 24 NCR 1817

10 NCAC 03U 0604 11 24 NCR 1817

10 NCAC 03U 0605 11 24 NCR 1817

10 NCAC 03U 0701 12 08 NCR 617

12 13 NCR 1098 * Object Approve 03/20/98 04/15/98 13 01 NCR 43

12 13 NCR 1098 * Object Approve 03/20/98 04/15/98 13 01 NCR 43

13 01 NCR 1

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10 NCAC 03U .0705	11:14 NCR 1108		11-27 NCR 2054	*						
10 NCAC 03U .0705	11-24 NCR 1817	12-08 NCR 710								
10 NCAC 03U .0710	12-08 NCR 617		12-13 NCR 1098	*	Approve	04/15/98	*		13-01 NCR 43	
10 NCAC 03U .0806	12-08 NCR 617		12-13 NCR 1098	*	Approve	04/15/98	*		13-01 NCR 43	
10 NCAC 03U .0901	11-08 NCR 449		11-17 NCR 1338	*	Object	03/20/98				
10 NCAC 03U .1600	12-21 NCR 1873									
10 NCAC 03U .1700	12-21 NCR 1873									
10 NCAC 03U .1720	12-08 NCR 617		12-13 NCR 1098	*	Object	03/20/98	*		13-01 NCR 43	
10 NCAC 03U .2000	12-21 NCR 1873				Approve	04/15/98				
10 NCAC 03U .2500	12-21 NCR 1873									
Facility Services										
10 NCAC 03R .0214	12-08 NCR 617									
10 NCAC 03R .3000	11-23 NCR 1780									
10 NCAC 03R .3001	10-23 NCR 2956		11-06 NCR 328	S/L/SE						
10 NCAC 03R .3030	10-23 NCR 2956		11-06 NCR 328	S/L/SE						
10 NCAC 03R .3032	10-23 NCR 2956		11-06 NCR 328	S/L/SE						
10 NCAC 03R .3040	10-23 NCR 2956		11-06 NCR 328	S/L/SE						
10 NCAC 03R .3050	10-23 NCR 2956		11-06 NCR 328	S/L/SE						
10 NCAC 03R .3051		12-15 NCR 1431								
10 NCAC 03R .3053		11-22 NCR 1713								
10 NCAC 03R .3053		12-06 NCR 481								
10 NCAC 03R .3060		12-06 NCR 481								
10 NCAC 03R .3061		12-06 NCR 481								
10 NCAC 03R .3063		12-06 NCR 481								
10 NCAC 03R .3065		12-06 NCR 481								
10 NCAC 03R .3072		12-06 NCR 481								

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10 NC/AC '03R 6001	11/22 NCR 1704									
10 NC/AC '03R 6101		12/15 NCR 1431								
10 NC/AC '03R 6102		12/15 NCR 1431								
10 NC/AC '03R 6103		12/15 NCR 1431								
10 NC/AC '03R 6104		12/15 NCR 1431								
10 NC/AC '03R 6105		12/15 NCR 1431								
10 NC/AC '03R 6106		12/15 NCR 1431								
10 NC/AC '03R 6107		12/15 NCR 1431								
10 NC/AC '03R 6108		12/15 NCR 1431								
10 NC/AC '03R 6109		12/15 NCR 1431								
10 NC/AC '03R 6110		12/15 NCR 1431								
10 NC/AC '03R 6111		12/15 NCR 1431								
10 NC/AC '03R 6112		12/15 NCR 1431								
10 NC/AC '03R 6113		12/15 NCR 1431								
10 NC/AC '03R 6114		12/15 NCR 1431								
10 NC/AC '03R 6115		12/15 NCR 1431								
10 NC/AC '03R 6116		12/15 NCR 1431								
10 NC/AC '03R 6117		12/15 NCR 1431								
10 NC/AC '03R 6118		12/15 NCR 1431								
10 NC/AC '03R 6119		12/15 NCR 1431								
10 NC/AC '03R 6120		12/15 NCR 1431								
10 NC/AC '03R 6121		12/15 NCR 1431								
10 NC/AC '03R 6122		12/15 NCR 1431								
10 NC/AC '03R 6123		12/15 NCR 1431								
10 NC/AC '03R 6124		12/15 NCR 1431								
10 NC/AC '03R 6125		12/15 NCR 1431								
10 NC/AC '03R 6126		12/15 NCR 1431								
10 NC/AC '03R 6127		12/15 NCR 1431								

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10 NCAC 03R 6128		12.15 NCR 1431								
10 NCAC 03R 6129		12.15 NCR 1431								
10 NCAC 03R 6130		12.15 NCR 1431								
10 NCAC 03R 6131		12.15 NCR 1431								
10 NCAC 03R 6132		12.15 NCR 1431								
10 NCAC 03R 6133		12.15 NCR 1431								
10 NCAC 03R 6134		12.15 NCR 1431								
10 NCAC 03R 6135		12.15 NCR 1431								
10 NCAC 03R 6136		12.15 NCR 1431								
10 NCAC 03R 6137		12.15 NCR 1431								
10 NCAC 03R 6138		12.15 NCR 1431								
10 NCAC 03R 6139		12.15 NCR 1431								
10 NCAC 03R 6140		12.15 NCR 1431								
10 NCAC 03R 6141		12.15 NCR 1431								
10 NCAC 03S	12.24 NCR 2194									
Medical Assistance										
10 NCAC 26B 0103	12.18 NCR 1694		13.01 NCR 5	*						
10 NCAC 26D 0110	12.06 NCR 444		12.21 NCR 1875	*						
10 NCAC 26H 0101	11.14 NCR 1108									
10 NCAC 26H 0102	11.14 NCR 1108									
10 NCAC 26H 0102	12.09 NCR 743	12.14 NCR 1341	12.18 NCR 1696	S/L/SE						
10 NCAC 26H 0211	12.09 NCR 743	12.14 NCR 1341	12.18 NCR 1696	S/L/SE						
10 NCAC 26H 0212		12.09 NCR 827								
10 NCAC 26H 0213		11.26 NCR 1997								
10 NCAC 26H 0213		12.09 NCR 827								
10 NCAC 26H 0401	12.08 NCR 618	12.14 NCR 1341	12.21 NCR 1875	S/L						
10 NCAC 26H 0602		12.04 NCR 313	12.15 NCR 1419	S/L	Approve	04/15/98	*		13.01 NCR 43	
10 NCAC 26K 0106	12.05 NCR 337									

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10 NCAC 26K .0106	12.06 NCR 444		12.21 NCR 1875	*						
10 NCAC 26M .0201	12.06 NCR 444		13.01 NCR 5	*						
10 NCAC 26M .0202	12.06 NCR 444		13.01 NCR 5	*						
10 NCAC 26M .0203	12.05 NCR 337									
10 NCAC 26M .0203	12.06 NCR 444		13.01 NCR 5	*						
10 NCAC 26M .0204	12.06 NCR 444		13.01 NCR 5	*						
10 NCAC 50A .0604	12.06 NCR 444		12.21 NCR 1875	*						
10 NCAC 50B .0202	12.06 NCR 444		12.21 NCR 1875	*						
Medical Care Commission										
10 NCAC 03D .1500	11.23 NCR 1779									
Mental Health, Developmental Disabilities and Substance Abuse Services										
10 NCAC 14G .0102		12.12 NCR 1060	12.19 NCR 1766	*						
10 NCAC 14V .0800	12.20 NCR 1820									
10 NCAC 14V .3800	12.20 NCR 1820									
10 NCAC 14V .4000	12.20 NCR 1820									
10 NCAC 14V .4301	12.19 NCR 1762									
10 NCAC 14V .4302	12.19 NCR 1762									
10 NCAC 14V .4303	12.19 NCR 1762									
10 NCAC 14V .4304	12.19 NCR 1762									
10 NCAC 14V .4305	12.19 NCR 1762									
10 NCAC 14V .4306	12.19 NCR 1762									
10 NCAC 14V .5000	12.20 NCR 1820									
10 NCAC 45H .0205	11.19 NCR 1762	12.24 NCR 2223		*						
Secretary of Health and Human Services										
10 NCAC 14C .1151	12.20 NCR 1820									
10 NCAC 14V .7006		12.01 NCR 31	12.07 NCR 511	*						
10 NCAC 21B .0117		12.17 NCR 1616	12.21 NCR 1875	S						
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10 NCAC 24A .0508	12.12 NCR 993	12.13 NCR 1180	12.23 NCR 2090	*						
10 NCAC 30 .0207	12.11 NCR 919	12.14 NCR 1347	12.15 NCR 1420	*	Approve	05/21/98				
10 NCAC 41A .0107		12.11 NCR 938	12.15 NCR 1420	*	Object	05/21/98				
10 NCAC 41E	12.11 NCR 919									
10 NCAC 41F .0707		12.11 NCR 938	12.15 NCR 1420	S	Approve	05/21/98				
10 NCAC 41F .0813		12.11 NCR 938	12.15 NCR 1420	S	Approve	05/21/98				
10 NCAC 41G	12.11 NCR 919									
10 NCAC 41H .0100	10.17 NCR 2228									
10 NCAC 41H .0102	10.17 NCR 2228									
10 NCAC 42C .2301	12.22 NCR 1979		10.21 NCR 2687	*						
10 NCAC 42C .3401		12.13 NCR 1180								
10 NCAC 42C .3403		12.13 NCR 1180								
10 NCAC 42C .3404		12.13 NCR 1180								
10 NCAC 42C .3601		12.13 NCR 1180								
10 NCAC 42R .0201	12.11 NCR 919	12.13 NCR 1180	12.23 NCR 2090	S/I						
10 NCAC 47A .0502		12.11 NCR 938	12.15 NCR 1420	*	Approve	05/21/98				
10 NCAC 47B .0102		12.11 NCR 938	12.15 NCR 1420	*	Object	05/21/98				
10 NCAC 47B .0303		12.11 NCR 938	12.15 NCR 1420	*	Approve	05/21/98				
10 NCAC 47B .0304		12.11 NCR 938	12.15 NCR 1420	*	Approve	05/21/98				
10 NCAC 47B .0305		12.11 NCR 938	12.15 NCR 1420	*	Approve	05/21/98	*			
10 NCAC 47B .0403		12.11 NCR 938	12.15 NCR 1420	*	Approve	05/21/98	*			
10 NCAC 49B .0608	12.20 NCR 1822									
Vocational Rehabilitation Services										
10 NCAC 20C .0100	12.24 NCR 2202									
10 NCAC 20C .0203	12.24 NCR 2202									
10 NCAC 20C .0206	12.24 NCR 2202									

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11 NCAC 06	12 09 NCR 744									
11 NCAC 12	12 09 NCR 744									
11 NCAC 12 0800	13 01 NCR 2									
11 NCAC 12 1000	13 01 NCR 2									
11 NCAC 12 1801		12 11 NCR 942	12 15 NCR 1424	*	Approve	04/15/98			13 01 NCR 43	
11 NCAC 12 1802		12 11 NCR 942	12 15 NCR 1424	*	Approve	04/15/98			13 01 NCR 43	
11 NCAC 12 1803		12 11 NCR 942	12 15 NCR 1424	*	Approve	04/15/98	*		13 01 NCR 43	
11 NCAC 12 1804		12 11 NCR 942	12 15 NCR 1424	*	Approve	04/15/98	*		13 01 NCR 43	
11 NCAC 13	12 09 NCR 744									
11 NCAC 14	12 09 NCR 744									
11 NCAC 15	12 09 NCR 744									
11 NCAC 16	12 09 NCR 744									
11 NCAC 17	12 09 NCR 744									
11 NCAC 20	12 09 NCR 744									
11 NCAC 21	12 09 NCR 744									
North Carolina Manufactured Housing Board										
11 NCAC 8 .0900	13 01 NCR 2									
JUSTICE										
Alarm Systems Licensing Board										
12 NCAC 11	11 30 NCR 2300									
12 NCAC 11 .0204	12 12 NCR 993		12 20 NCR 1823	*						
12 NCAC 11 .0210	12 08 NCR 618		12 20 NCR 1823	*						
12 NCAC 11 .0501	11 30 NCR 2300		12 20 NCR 1823	*						
12 NCAC 11 .0502	11 30 NCR 2300		12 20 NCR 1823	*						
12 NCAC 11 .0503	11 30 NCR 2300		12 20 NCR 1823	*						
12 NCAC 11 .0504	11 30 NCR 2300		12 20 NCR 1823	*						
12 NCAC 11 .0505	11 30 NCR 2300		12 20 NCR 1823	*						
12 NCAC 11 .0506	11 30 NCR 2300		12 20 NCR 1823	*						

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12 NCAC 11 .0507	11-30 NCR 2300		12-20 NCR 1823	*						
Criminal Justice Education and Training Standards Commission										
12 NCAC 09A .0103	12-21 NCR 1873		13-01 NCR 6	*						
12 NCAC 09B .0101	12-21 NCR 1873		13-01 NCR 6	*						
12 NCAC 09B .0210	12-21 NCR 1873		13-01 NCR 6	*						
12 NCAC 09B .0211	12-21 NCR 1873		13-01 NCR 6	*						
12 NCAC 09B .0212	12-21 NCR 1873		13-01 NCR 6	*						
12 NCAC 09B .0213	12-21 NCR 1873		13-01 NCR 6	*						
12 NCAC 09B .0214	12-21 NCR 1873		13-01 NCR 6	*						
12 NCAC 09B .0215	12-21 NCR 1873		13-01 NCR 6	*						
12 NCAC 09B .0218	12-21 NCR 1873		13-01 NCR 6	*						
12 NCAC 09B .0219	12-21 NCR 1873		13-01 NCR 6	*						
12 NCAC 09B .0220	12-21 NCR 1873		13-01 NCR 6	*						
12 NCAC 09B .0221	12-21 NCR 1873		13-01 NCR 6	*						
12 NCAC 09B .0222	12-21 NCR 1873		13-01 NCR 6	*						
12 NCAC 09B .0301	12-21 NCR 1873		13-01 NCR 6	*						
12 NCAC 09B .0309	12-21 NCR 1873		13-01 NCR 6	*						
12 NCAC 09B .0310	12-21 NCR 1873		13-01 NCR 6	*						
12 NCAC 09B .0311	12-21 NCR 1873		13-01 NCR 6	*						
12 NCAC 09B .0404	12-21 NCR 1873		13-01 NCR 6	*						
12 NCAC 09B .0408	12-21 NCR 1873		13-01 NCR 6	*						
12 NCAC 09B .0409	12-21 NCR 1873		13-01 NCR 6	*						
12 NCAC 09B .0414	12-21 NCR 1873		13-01 NCR 6	*						
12 NCAC 09B .0416	12-21 NCR 1873		13-01 NCR 6	*						
12 NCAC 09C .0308	12-21 NCR 1873		13-01 NCR 6	*						
Private Protective Services Board										
12 NCAC 07D .0204	11-14 NCR 1108		12-08 NCR 622	*	Object	03/20/98				
12 NCAC 07D .1106	11-14 NCR 1108		12-08 NCR 622	*	Object	03/20/98				

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12 NCAC 07D 1201	11 10 NCR 818		12-14 NCR 1263	*						
12 NCAC 07D 1202	11 10 NCR 818		12-14 NCR 1263	*						
12 NCAC 07D 1301	11 16 NCR 1268		12-14 NCR 1263	*						
12 NCAC 07D 1302	11 16 NCR 1268		12-14 NCR 1263	*						
12 NCAC 07D 1303	11 16 NCR 1268		12-14 NCR 1263	*						
12 NCAC 07D 1304	11 16 NCR 1268		12-14 NCR 1263	*						
12 NCAC 07D 1305	11 16 NCR 1268		12-14 NCR 1263	*						
12 NCAC 07D 1306	11 16 NCR 1268		12-14 NCR 1263	*						
12 NCAC 07D 1307	11 16 NCR 1268		12-14 NCR 1263	*						
Sheriffs' Education and Training Standards Commission										
12 NCAC 10B 0206	12-07 NCR 508	12-18 NCR 1703	12-18 NCR 1703	*						
12 NCAC 10B 1103	12-07 NCR 508	12-18 NCR 1703	12-08 NCR 624							
12 NCAC 10B 1104	12-07 NCR 508	12-18 NCR 1703	12-08 NCR 624							
LABOR										
Occupational Safety and Health										
13 NCAC 07A 0900	11 11 NCR 881									
13 NCAC 07F	11 03 NCR 106									
13 NCAC 07F 0101	11-26 NCR 1984		12-03 NCR 170	*						
13 NCAC 07F 0201	11 03 NCR 106									
13 NCAC 07F 0201	11-26 NCR 1984		12-03 NCR 170	*						
13 NCAC 07F 0301	11-03 NCR 106									
LANDSCAPE ARCHITECTS, BOARD OF										
21 NCAC 26 0104		12-08 NCR 730								
21 NCAC 26 0105		12-08 NCR 730								
21 NCAC 26 0302		12-08 NCR 730								
21 NCAC 26 0506		12-08 NCR 730								
21 NCAC 26 0507		12-08 NCR 730								
21 NCAC 26 0508		12-08 NCR 730								

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21 NCAC 26.0509		12.08 NCR 730								
MEDICAL BOARD										
21 NCAC 32B	11.18 NCR 1369									
21 NCAC 32B	12.04 NCR 245									
21 NCAC 32F .0103		11.18 NCR 1386	12.04 NCR 294	*						
21 NCAC 32F .0103		Temp Expired								
21 NCAC 32H .0402		12.14 NCR 1354	12.21 NCR 1881	*						
21 NCAC 32H .0402		12.04 NCR 314								
21 NCAC 32M	12.19 NCR 1765									
21 NCAC 32O	11.18 NCR 1369									
MORTUARY SCIENCE, BOARD OF										
21 NCAC 34A .0201		12.07 NCR 556								
21 NCAC 34C	12.09 NCR 745									
MUNICIPAL INCORPORATIONS PETITION										
NURSING, BOARD OF										
21 NCAC 36.0227	12.05 NCR 338									
OPTICIANS, BOARD OF										
21 NCAC 40.0108		12.07 NCR 557								
OPTOMETRY, BOARD OF										
21 NCAC 42	12.06 NCR 453									
21 NCAC 42F .0102		12.06 NCR 487	12.12 NCR 1058	*	Approve	04/15/98			13.01 NCR 43	
PHARMACY, BOARD OF										
21 NCAC 46.1317	13.01 NCR 3									
21 NCAC 46.1414	N/A	N/A	N/A		Approve	04/15/98			13.01 NCR 43	
21 NCAC 46.1414	12.24 NCR 2203									
21 NCAC 46.1606	13.01 NCR 3									
21 NCAC 46.1601	12.03 NCR 168		12.07 NCR 527	*						
21 NCAC 46.1601	12.24 NCR 2203		12.09 NCR 797	*	Approve	03/20/98			12.23 NCR 2100	

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					Action	Date				
21 NCAC 46 .1608	12.24 NCR 2203									
21 NCAC 46 .1609	12.24 NCR 2203									
21 NCAC 46 .1703	12.24 NCR 2203									
21 NCAC 46 .1809	12.24 NCR 2203									
21 NCAC 46 .1813	N/A	N/A	N/A		Approve	04/15/98			13.01 NCR 43	
21 NCAC 46 .2103	12.03 NCR 168		12.07 NCR 527	*						
			12.09 NCR 797	*						
			12.07 NCR 527	*						
			12.09 NCR 797	*						
21 NCAC 46 .2301	12.03 NCR 168									
21 NCAC 46 .2304	12.24 NCR 2203									
21 NCAC 46 .2604	12.24 NCR 2203									
21 NCAC 46 .2609	12.24 NCR 2203									
21 NCAC 46 .2611	N/A	N/A	N/A		Approve	04/15/98			13.01 NCR 43	
21 NCAC 46 .2611	12.24 NCR 2203									
PHYSICAL/THERAPY EXAMINERS										
21 NCAC 48A .0103	12.08 NCR 619		12.13 NCR 1150	*	Object	03/20/98	*		13.01 NCR 43	
21 NCAC 48A .0105	12.08 NCR 619		12.13 NCR 1150	*	Approve	04/15/98	*		13.01 NCR 43	
21 NCAC 48C .0401	12.08 NCR 619		12.13 NCR 1150	*	Object	03/20/98	*		13.01 NCR 43	
21 NCAC 48D .0102	12.08 NCR 619		12.13 NCR 1150	*	Approve	04/15/98	*		13.01 NCR 43	
21 NCAC 48D .0105	12.08 NCR 619		12.13 NCR 1150	*	Object	03/20/98	*		13.01 NCR 43	
21 NCAC 48D .0112	12.08 NCR 619		12.13 NCR 1150	*	Approve	04/15/98	*		13.01 NCR 43	
21 NCAC 48F .0102	12.08 NCR 619		12.13 NCR 1150	*	Object	03/20/98	*		13.01 NCR 43	
21 NCAC 48G .0203	12.08 NCR 619		12.13 NCR 1150	*	Approve	04/15/98	*		13.01 NCR 43	
21 NCAC 48G .0404	12.08 NCR 619		12.13 NCR 1150	*	Object	03/20/98	*		13.01 NCR 43	
21 NCAC 48G .0601	12.08 NCR 619		12.13 NCR 1150	*	Approve	04/15/98	*		13.01 NCR 43	

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PLUMBING, HEATING AND FIRE SPRINKLER CONTRACTORS, EXAMINERS OF										
21 NCAC 50 .0106	12-07 NCR 509				Approve	04/15/98	*		13-01 NCR 43	
21 NCAC 50 .0202	12-07 NCR 509									
21 NCAC 50 .0301	12-07 NCR 509	12-07 NCR 557	12-16 NCR 1490	*	Approve	04/15/98			13-01 NCR 43	
21 NCAC 50 .0306	12-07 NCR 509	12-07 NCR 557	12-16 NCR 1490	*	Approve	04/15/98			13-01 NCR 43	
21 NCAC 50 .0404	12-07 NCR 509	12-07 NCR 557	12-16 NCR 1490	*	Approve	04/15/98			13-01 NCR 43	
21 NCAC 50 .0405	12-07 NCR 509		12-16 NCR 1490	*	Approve	04/15/98			13-01 NCR 43	
21 NCAC 50 .0506	12-07 NCR 509	12-07 NCR 557								
21 NCAC 50 .0510	12-07 NCR 509		12-16 NCR 1490	*	Approve	04/15/98			13-01 NCR 43	
21 NCAC 50 .0511	12-07 NCR 509	12-07 NCR 557	12-16 NCR 1490	*	Approve	04/15/98			13-01 NCR 43	
21 NCAC 50 .1102	12-07 NCR 509	12-07 NCR 557	12-16 NCR 1490	S	Approve	04/15/98			13-01 NCR 43	
21 NCAC 50 .1104	12-07 NCR 509		12-16 NCR 1490	*	Approve	04/15/98			13-01 NCR 43	
21 NCAC 50 .1201	12-07 NCR 509									
21 NCAC 50 .1205	12-07 NCR 509									
21 NCAC 50 .1206	12-07 NCR 509									
21 NCAC 50 .1210	12-07 NCR 509									
21 NCAC 50 .1212	12-07 NCR 509									
21 NCAC 50 .1302	12-07 NCR 509									
PROFESSIONAL ENGINEERS AND LAND SURVEYORS										
21 NCAC 56 .0103	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98	*		13-01 NCR 43	
21 NCAC 56 .0104	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98			13-01 NCR 43	
21 NCAC 56 .0401	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98	*		13-01 NCR 43	
21 NCAC 56 .0403	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98	*		13-01 NCR 43	
21 NCAC 56 .0404	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98			13-01 NCR 43	
21 NCAC 56 .0405	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98			13-01 NCR 43	
21 NCAC 56 .0501	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98	*		13-01 NCR 43	
21 NCAC 56 .0502	12-08 NCR 619		12-16 NCR 1492	S	Approve	04/15/98	*		13-01 NCR 43	

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21 NCAC 56 .0503	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98	*		13-01 NCR 43	
21 NCAC 56 .0505	12-08 NCR 619		12-16 NCR 1492	S	Approve	04/15/98	*		13-01 NCR 43	
21 NCAC 56 .0601	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98	*		13-01 NCR 43	
21 NCAC 56 .0602	12-08 NCR 619		12-16 NCR 1492	S	Approve	04/15/98	*		13-01 NCR 43	
21 NCAC 56 .0603	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98	*		13-01 NCR 43	
21 NCAC 56 .0606	12-08 NCR 619		12-16 NCR 1492	S	Approve	04/15/98			13-01 NCR 43	
21 NCAC 56 .0701	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98	*		13-01 NCR 43	
21 NCAC 56 .0702	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98			13-01 NCR 43	
21 NCAC 56 .0901	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98	*		13-01 NCR 43	
21 NCAC 56 .0902	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98			13-01 NCR 43	
21 NCAC 56 .1102	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98	*		13-01 NCR 43	
21 NCAC 56 .1103	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98	*		13-01 NCR 43	
21 NCAC 56 .1104	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98	*		13-01 NCR 43	
21 NCAC 56 .1105	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98			13-01 NCR 43	
21 NCAC 56 .1106	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98	*		13-01 NCR 43	
21 NCAC 56 .1201	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98	*		13-01 NCR 43	
21 NCAC 56 .1203	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98	*		13-01 NCR 43	
21 NCAC 56 .1205	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98	*		13-01 NCR 43	
21 NCAC 56 .1301	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98	*		13-01 NCR 43	
21 NCAC 56 .1302	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98	*		13-01 NCR 43	
21 NCAC 56 .1403	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98	*		13-01 NCR 43	
21 NCAC 56 .1409	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98	*		13-01 NCR 43	
21 NCAC 56 .1411	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98	*		13-01 NCR 43	
21 NCAC 56 .1602	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98	*		13-01 NCR 43	
21 NCAC 56 .1603	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98	*		13-01 NCR 43	
21 NCAC 56 .1604	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98	*		13-01 NCR 43	
21 NCAC 56 .1703	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98	*		13-01 NCR 43	
21 NCAC 56 .1704	12-08 NCR 619		12-16 NCR 1492	*	Approve	04/15/98			13-01 NCR 43	

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21 NCAC 56.1705	12.08 NCR 619		12.16 NCR 1492	*	Approve	04/15/98			13.01 NCR 43	
21 NCAC 56.1711	12.08 NCR 619		12.16 NCR 1492	*	Approve	04/15/98			13.01 NCR 43	
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21 NCAC 54.1611	12.05 NCR 338									
21 NCAC 54.1612	12.05 NCR 338									
21 NCAC 54.1613	12.05 NCR 338									
21 NCAC 54.2006	12.05 NCR 338									
21 NCAC 54.2010	12.05 NCR 338									
21 NCAC 54.2104	12.05 NCR 338									
21 NCAC 54.2301	12.05 NCR 338									
21 NCAC 54.2302	12.05 NCR 338									
21 NCAC 54.2303	12.05 NCR 338									
21 NCAC 54.2304	12.05 NCR 338									
21 NCAC 54.2305	12.05 NCR 338									
21 NCAC 54.2306	12.05 NCR 338									
21 NCAC 54.2307	12.05 NCR 338									
21 NCAC 54.2308	12.05 NCR 338									
21 NCAC 54.2309	12.05 NCR 338									
21 NCAC 54.2310	12.05 NCR 338									
21 NCAC 54.2311	12.05 NCR 338									
21 NCAC 54.2312	12.05 NCR 338									
21 NCAC 54.2313	12.05 NCR 338									
21 NCAC 54.2314	12.05 NCR 338									
21 NCAC 54.2401	12.05 NCR 338									
21 NCAC 54.2402	12.05 NCR 338									
21 NCAC 54.2501	12.05 NCR 338									
21 NCAC 54.2502	12.05 NCR 338									
21 NCAC 54.2503	12.05 NCR 338									

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21 NCAC 54 2504 12 05 NCR 338
 21 NCAC 54 2505 12 05 NCR 338
 21 NCAC 54 2601 12 05 NCR 338
 21 NCAC 54 2602 12 05 NCR 338
 21 NCAC 54 2704 12 05 NCR 338
 21 NCAC 54 2705 12 05 NCR 338
 21 NCAC 54 2706 12 05 NCR 338

PUBLIC EDUCATION

16 NCAC 06C 0310 12 03 NCR 210 12 01 NCR 18 *
 16 NCAC 06C 0502 12 09 NCR 834 12 19 NCR 1773 N/A
 16 NCAC 06C 0602 12 12 NCR 1050 12 12 NCR 1050 *
 16 NCAC 06D 0103 12 22 NCR 2010 12 19 NCR 1773 N/A
 16 NCAC 06I 0105 12 05 NCR 433 12 19 NCR 1773 N/A
 16 NCAC 06G 0305 12 19 NCR 1773 12 19 NCR 1773 N/A
 16 NCAC 06G 0310 12 19 NCR 1773 12 19 NCR 1773 N/A
 16 NCAC 06G 0311 12 22 NCR 2010 12 19 NCR 1773 N/A
 16 NCAC 06G 0501 12 12 NCR 1071 12 19 NCR 1773 N/A

Public School Administration, Standards Board for

16 NCAC 07 0202 12 07 NCR 533 12 12 NCR 1052 *
 17 NCAC 05B 1402 N/A N/A
 17 NCAC 05B 1703 N/A N/A
 17 NCAC 05C 0102 12 14 NCR 1285 *
 17 NCAC 05C 0703 12 14 NCR 1285 *
 17 NCAC 06B 3204 12 17 NCR 1610 *
 17 NCAC 09L 0302 12 17 NCR 1610 *

REVENUE

17 NCAC 05B 1402 N/A N/A
 17 NCAC 05B 1703 N/A N/A
 17 NCAC 05C 0102 12 14 NCR 1285 *
 17 NCAC 05C 0703 12 14 NCR 1285 *
 17 NCAC 06B 3204 12 17 NCR 1610 *
 17 NCAC 09L 0302 12 17 NCR 1610 *

SECRETARY OF STATE

Temp Filed over obj

13 01 NCR 43

13 01 NCR 43

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SPEECH AND LANGUAGE PATHOLOGISTS AND AUDIOLOGIST, BOARD OF EXAMINERS

21 NCAC 64.0303 11-23 NCR 1780

25 NCA'01D 2516	11 13 NCR 1062	11 19 NCR 1429
25 NCA'01D 2517	Temp Expired	12 09 NCR 835

21 NCAC 68	12:09 NCR 745		
21 NCAC 68.0101		12.11 NCR 944	12.15 NCR 1426
21 NCAC 68.0102	N/A	N/A	N/A
21 NCAC 68.0301		12.11 NCR 944	12.15 NCR 1426
21 NCAC 68.0302		12.11 NCR 944	12.15 NCR 1426

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21 NC AC 68 0303		12 11 NCR 944	12 15 NCR 1426	S/I	Approve	04/15/98	*		13 01 NCR 43	
21 NC AC 68 0304		12 11 NCR 944	12 15 NCR 1426	S/I	Approve	04/15/98			13 01 NCR 43	
21 NC AC 68 0305		12 11 NCR 944	12 15 NCR 1426	S/I	Object	04/15/98	*			
21 NC AC 68 0306		12 11 NCR 944	12 15 NCR 1426	S/I	Approve	05/21/98			13 01 NCR 43	
21 NC AC 68 0307		12 11 NCR 944	12 15 NCR 1426	S/I	Approve	04/15/98			13 01 NCR 43	
21 NC AC 68 0602	12 09 NCR 745		12 15 NCR 1426	S/I	Approve	04/15/98			13 01 NCR 43	
21 NC AC 68 0603	12 09 NCR 745		12 15 NCR 1426	S/I	Approve	04/15/98	*		13 01 NCR 43	
21 NC AC 68 0608	12 09 NCR 745		12 15 NCR 1426	S/I	Approve	04/15/98			13 01 NCR 43	
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Highways, Division of										
19A NC AC 02D 0406	12 22 NCR 1980									
19A NC AC 02D 0415	12 18 NCR 1694		12 24 NCR 2219	*						
19A NC AC 02D 0816	12 19 NCR 1764		13 01 NCR 41	*						
Motor Vehicles, Division of										
19A NC AC 031 0100	11 19 NCR 1413									
19A NC AC 031 0200	11 19 NCR 1413									
19A NC AC 031 0202	12 18 NCR 1695		12 24 NCR 2220	*						
19A NC AC 031 0203	12 18 NCR 1695		12 24 NCR 2220	*						
19A NC AC 031 0300	11 19 NCR 1413									
19A NC AC 031 0400	11 19 NCR 1413									
19A NC AC 031 0500	11 19 NCR 1413									
19A NC AC 031 0501	12 18 NCR 1695		12 24 NCR 2220	*						
19A NC AC 031 0502	12 18 NCR 1695		12 24 NCR 2220	*						
19A NC AC 031 0503	12 18 NCR 1695		12 24 NCR 2220	*						
19A NC AC 031 0600	11 19 NCR 1413									
19A NC AC 031 0700	11 19 NCR 1413									
19A NC AC 031 0800	11 19 NCR 1413									
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Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				

19A NCAC 06B .0412 12:22 NCR 1981

19A NCAC 06B .0413 12:22 NCR 1981

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21 NCAC 66 .0207 12:23 NCR 2089

21 NCAC 66 .0208 12:23 NCR 2089

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